

HARRY SCHEELER,

Plaintiff/Respondent,

v.

ATLANTIC COUNTY MUNICIPAL
JOINT INSURANCE FUND; ARTHUR
J. GALLAGHER RISK MANAGEMENT
SERVICES, INC., in its
capacity as the Fund
Administrator, and PAUL J.
MIOLA, in his capacity as the
custodian of Records for
Atlantic County Municipal
Joint Insurance Fund,

Defendants/Appellants.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-002092-15

Sat Below:

Hon. Ronald E. Bookbinder,
A.J.S.C.
Superior Court of New Jersey
Law Division, Burlington County

Docket No. Below:
BUR-L-990-15

**Brief of *Amici Curiae* The Reporters Committee for Freedom of the
Press and 18 Media Organizations**

Bruce Brown*
Katie Townsend*
Adam A. Marshall*
The Reporters Committee for
Freedom of the Press
1156 15th St. NW, Suite 1250
Washington, DC 20005
*Of Counsel

Bruce S. Rosen, Esq.
McCusker, Anselmi, Rosen &
Carvelli, P.C.
210 Park Avenue, Suite 301
Florham Park, NJ 07932
Tel: 973.635.6300
Fax: 973.635.6363
Counsel of Record for amici

LIST OF AMICI CURIAE

The Reporters Committee for Freedom of the Press

American Society of News Editors

Association of Alternative Newsmedia

Bloomberg News

The Center for Investigative Reporting

First Look Media Works, Inc.

Gannett Co., Inc.

The Media Consortium

National Press Photographers Association

The New York Times Company

News Media Alliance

Newsday LLC

The NewsGuild - CWA

Online News Association

ProPublica

Society of Professional Journalists

Tully Center for Free Speech

Univision

The Washington Post

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IDENTITIES AND INTEREST OF AMICI CURIAE

Amici are the Reporters Committee for Freedom of the Press, American Society of News Editors, Association of Alternative Newsmedia, Bloomberg News, The Center for Investigative Reporting, First Look Media Works, Inc., Gannett Co., Inc., The Media Consortium, National Press Photographers Association, The New York Times Company, News Media Alliance, Newsday LLC, The NewsGuild - CWA, Online News Association, ProPublica, Society of Professional Journalists, Tully Center for Free Speech, Univision, and The Washington Post (collectively, "*amici*"). *Amici* are described in more detail in Appendix A. As representatives and members of the news media, *amici* frequently rely on state and federal freedom of information laws, including New Jersey's Open Public Records Act ("OPRA"), to gather information about the government and report on matters of public concern. *Amici* thus have a strong interest in ensuring that such laws facilitate broad public access to government records. *Amici* write to (1) emphasize that the ability of members the news media to gather the news and report on the activities of New Jersey government agencies and officials for the benefit of the citizens of New Jersey should not be made to depend on where a particular member of the news media is geographically located, and (2) to highlight some of the important news stories that came to light through the use of OPRA by out-of-state journalists and news organizations.

INTRODUCTION AND SUMMARY OF ARGUMENT

Amici write as members and representatives of the news media to address and to vigorously oppose the argument made by Defendants/Appellants to this Court that those who are not citizens of the State of New Jersey cannot avail themselves of the Open Public Records Act, N.J.S.A. 47:1A-1 - 13 ("OPRA"). See Br. on Behalf of Defendants/Appellants at 18-25. *Amici* agree with Plaintiff-Appellee, for the reasons set forth in its brief, that "any person" is authorized to use OPRA. N.J.S.A. 47:1A-5. *Amici* write separately to underscore the importance of this interpretation of OPRA for the press, which gathers and disseminates information of public interest and concern about New Jersey government agencies and officials to the citizens of New Jersey and the nation as a whole.

The news media serves a critical function in a representative democracy. Reporters and news organizations monitor local, state, and federal government and report on their actions – and, in some cases, inactions – to the public. In doing so, the press enables an informed citizenry, providing members of the public with the information necessary to participate meaningfully in the political process. The ability of a reporter or news organization to fulfill this constitutionally-recognized and vital role does not turn upon that reporter's or news organization's geographic location or citizenship. As long as a member of the news media is distributing

information of public interest and concern to the citizens of a particular state, there is no reason, whatsoever, to limit her or his ability to gather that information simply because of where he or she happens to be located.

This is especially true in New Jersey, which is located in an area of substantial interstate travel and exchange, and where local and state government issues may affect the citizens of multiple states. Indeed, much of the news consumed by the citizens of New Jersey comes from news organizations located in other states. Moreover, in the digital age reporters from around the country routinely request information from other jurisdictions in order to write stories that are of interest to citizens living in that jurisdiction and around the nation. As practical barriers to the broad dissemination of information melt away, New Jersey should not impose artificial roadblocks that obstruct the public's right to know. If the press is deprived of access to government information, it is the public that will suffer.

Out-of-state journalists and news organizations have in the past used OPRA to obtain public records from New Jersey agencies that are of enormous public importance. From revealing the existence of dangerous lead dust in communities across the State, to reporting on the financial expenditures of New Jersey government officials, to providing the public with information about U.S. presidential candidates, government records obtained through OPRA

by out-of-state news media have led to stories that fulfill the statute's core purpose: ensuring an informed citizenry. For the reasons set forth herein, *amici* urge this Court to reject the argument, asserted by Defendants-Appellants, that out-of-state journalists should now be restricted from obtaining public records under OPRA, and to hold, unequivocally, that any person may use it.

ARGUMENT

I. Members of the news media play a crucial role in keeping the public informed that is unrelated to the citizenship or geographic location of the journalists involved.

Access to government information is necessary for citizens to understand the issues affecting their communities, their states and their country, to know what their elected officials are doing (or not doing) to address those issues, and thus to meaningfully participate in the democratic process. As James Madison once wrote, "[a] popular government without popular information or the means of acquiring it, is but a prologue for a farce or a tragedy or perhaps both." Quoted in Clarifying and Protecting the Right of the Public to Information, and for Other Purposes, S. Rep. No. 813, at 38 (1965), archived at <https://perma.cc/8C9Y-3EKR>. Indeed, access to government records is, alongside the rights to speak, debate, and petition, part of the core framework of our democratic society. See Nat'l Archives & Records Admin. v. Favish, 541 U.S. 157, 172 (2004) (stating that the means for a citizen to

know "what their Government is up to" is "a structural necessity in a real democracy.").

This principle is well established in this State, by both common law and statute. In discussing the Open Public Records Act, N.J.S.A. 47:1A-1 - 13 ("OPRA"), for example, the New Jersey Supreme Court observed that

Those who enacted OPRA understood that knowledge is power in a democracy, and that without access to information contained in records maintained by public agencies citizens cannot monitor the operation of our government or hold public officials accountable for their actions. An underlying premise of OPRA is that society as a whole suffers when governmental bodies are permitted to operate in secrecy.

Fair Share Hous. Ctr., Inc. v. New Jersey State League of Municipalities, 207 N.J. 489, 502, 25 A.3d 1063, 1070 (2011) (quotation and citation omitted).

Individual members of the public, however, do not always have the time, expertise, or ability to serve as the watchdogs that a healthy democracy requires. Accordingly, the public relies on the press to be its "eyes and ears" by overseeing the workings of government on the public's behalf. See South Jersey Pub. Co. v. New Jersey Expressway Auth., 124 N.J. 478, 496, 591 A.2d 921, 931 (1991); Home News v. State, Dep't of Health, 144 N.J. 446, 454, 677 A.2d 195, 198 (1996).¹ For that reason, both the New Jersey

¹ See also Cox Broad. Corp. v. Cohn, 420 U.S. 469, 491 (1975) (noting that "in a society in which each individual has but limited time and resources with which to observe at first hand

Supreme Court and this Court have recognized the special role of the press – alongside and in addition to ordinary citizens – in using OPRA to gather information of importance to the public:

With broad public access to information about how state and local governments operate, citizens and the media can play a watchful role in curbing wasteful government spending and guarding against corruption and misconduct.

Burnett v. Cty. of Bergen, 198 N.J. 408, 414, 968 A.2d 1151, 1154 (2009) (emphasis added); Sussex Commons Associates, LLC v. Rutgers, 210 N.J. 531, 541, 46 A.3d 536, 542 (2012) (quoting same).²

The “watchful role” of the press does not depend on an individual reporter’s or news organization’s geographic location or citizenship. As long as a member of the news media is gathering and disseminating information to members of the public in a given community or state, where the reporter or organization happens to be located is irrelevant. Indeed, even the express citizenship

the operations of his government, he relies necessarily upon the press to bring to [them] in convenient form the facts of those operations.”).

² See also Paff v. Ocean Cty. Prosecutor's Office, No. A-4226-14T3, 2016 WL 3547502, at *9 (N.J. Super. Ct. App. Div. June 30, 2016); Lagerkvist v. State, No. A-4907-13T1, 2015 WL 7078885, at *3 (N.J. Super. Ct. App. Div. Nov. 12, 2015) (quoting same); Kennedy v. Montclair Ctr. Corp. Bus. Imp. Dist., No. A-4591-12T2, 2014 WL 4698508, at *2 (N.J. Super. Ct. App. Div. June 24, 2014) (quoting same); Paff v. New Jersey State Firemen's Ass'n, 431 N.J. Super. 278, 287, 69 A.3d 118, 123 (App. Div. 2013) (quoting same); Newark Morning Ledger Co. v. New Jersey Sports & Exposition Auth., 423 N.J. Super. 140, 160, 31 A.3d 623, 635 (App. Div. 2011) (quoting same); Livecchia v. Borough of Mount Arlington, 421 N.J. Super. 24, 33, 22 A.3d 140, 145 (App. Div. 2011) (quoting same).

requirement found in Virginia's freedom of information law, which was upheld in McBurney v. Young, 133 S. Ct. 1709 (2013), contains an exception for news media with an in-state circulation. See Va. Code Ann. § 2.2-3704.

As discussed in more detail in Section II, New Jersey agencies have, in the past, complied with OPRA requests from out-of-state journalists and news organizations, and the harm of permitting them to deny such requests based solely on the location of the requestor is not theoretical. For example, broadcast television is the largest source of news for American adults who are particularly concerned with local news. See Carolyn Miller, Kristen Purcell, & Tom Rosenstiel, *72% of Americans follow local news closely*, Pew Research Center 13-14 (Apr. 12, 2012), archived at <https://perma.cc/M87Y-XHJX>. Yet, despite a population of nearly nine million residents, New Jersey has few of its own local television stations. Philip M. Napoli, *When local news isn't really local: In New Jersey, New York's shadow can mean a less healthy news ecosystem*, NiemenLab (Mar. 10, 2015), archived at <https://perma.cc/X3MT-4W2C>. Thus, for New Jersey's citizens to remain informed, reporters in neighboring states must have access to New Jersey government records.

Moreover, New Jersey is a state nestled in a densely populated area that sees an incredible amount of interstate travel and exchange. See Carla Astudillo, *Population shift: People ditching*

N.Y. area for Philly by the thousands, NJ.com (Aug. 26, 2015), <http://bit.ly/29kyOVT>. Given that interconnectedness, the residents of New Jersey's sister states likewise have an interest in staying abreast of government decisions within this State that could affect them. See, e.g., Andrew Seidman, *Work in Philly and live in Jersey? You may lose tax break*, The Philadelphia Inquirer (Jul. 2, 2016), archived at <https://perma.cc/BZ8X-UUCZ> (discussing potential effects on approximately 140,000 workers who either live in New Jersey but work in Pennsylvania or vice versa); Patrick McGeehan & Emma Fitzsimmons, *New Jersey Drivers Fume as Road and Bridge Work Stops*, The N.Y. Times (Jul. 19, 2016), <http://nyti.ms/29NdFny> (discussing the inter- and intra-state effects of a cessation of construction across New Jersey).

Finally, changing methods of reporting and publishing also have an effect on how the citizens of New Jersey and the nation receive their news, and provide yet another reason to reject reading a citizenship restriction into OPRA. The continued explosion of the digital public sphere is disentangling the democratic function of the press from its physical location like never before, breaking down traditional barriers between local, state, and national reporting. Digital news sources are now the second most frequently accessed type of media source by Americans. Kristine Lu & Jesse Holcomb, *Digital News Audience: Fact Sheet*, Pew Research Center (Jun. 15, 2016), archived at

<https://perma.cc/WH8C-XBS9>. Advances in technology have made it easy for reporters located anywhere in the country to gather information from far-away state and local jurisdictions to develop stories that are later accessible online by citizens in those states, benefiting both local news consumers and other interested readers. As practical barriers to newsgathering and the wide dissemination of information melt away, this State should not create new artificial, arbitrary legal roadblocks that serve no practical or beneficial purpose.

II. Journalists and news organizations located outside of New Jersey have used OPRA to report on matters of immense importance for both citizens of this State and the country as a whole.

As stated above and discussed in detail in Plaintiff-Appellee's brief, "any person" is authorized to use OPRA. N.J.S.A. 47:1A-5. Indeed, the New Jersey Attorney General's Office has "advise[d] that OPRA does not prohibit access to residents of other states"; "anyone" can use the statute. New Jersey Government Records Council, *The New Jersey Open Public Records Act Handbook for Records Custodians*, Fifth Edition (Jan. 2011) at p. 6, available at <http://www.nj.gov/grc/custodians/handbook/>. Accordingly, journalists and news organizations located outside of New Jersey have a history of submitting OPRA requests, and having those requests fulfilled by government agencies within the State. Government records obtained through OPRA by out-of-state news

media have led to reporting on matters of the utmost public importance for the citizens of this State and other states, and underscore why this Court should refuse Defendants/Appellants' invitation to impose a citizenship requirement on the use of OPRA.

A. Use of OPRA by out-of-state press has led to stories about the health and safety of New Jersey residents.

In 2012, the Virginia-based national publication *USA Today* published a series of stories about old factories around the country that have left dangerously contaminated soil in nearby communities. See Alison Young, *Long-gone lead factories leave poisons in nearby yards*, *USA Today* (Mar. 25, 2012), archived at <https://perma.cc/8XCB-JE5P>. The operation of those factories produced lead dust that was carried by the wind, dropping it on soil and buildings and accumulating over time. Id. A *USA Today* article reported that the federal Environmental Protection Agency ("EPA") and state regulators "left thousands of families and children in harm's way, doing little to assess the danger around many of the more than 400 potential lead smelter locations . . ." across the nation. Id.

New Jersey was one of the states identified by *USA Today's* Virginia-based reporters as a potential location for such lead contamination. Based on a research article that identified 31 potential lead-smelting sites in New Jersey, *USA Today* filed 31 OPRA requests with the New Jersey Department of Environmental

Protection ("DEP") seeking files concerning each of the sites. Id. DEP responded by releasing just five files, only two of which showed evidence that it was aware the sites were smelters or lead factories. See id. The paucity of the DEP's information raised serious questions about whether it was even aware of the potential health risks for nearby communities. See id. *USA Today* found 12 additional factory sites that the DEP either did not have or did not produce files relating to. Id.

Subsequent testing by the EPA, DEP, and by *USA Today* revealed that there was, indeed, hazardous lead contamination in communities in New Jersey. Alison Young, *EPA to clean NJ yards, others not tested*, *USA Today* (Dec. 4, 2012), archived at <https://perma.cc/MB3C-T7ZY>. In response to the newspaper's reporting, which was based on OPRA requests, the DEP conducted risk assessments of the 31 sites, and along with the EPA performed soil tests of some (but not all) of the sites identified by *USA Today*. Id.

As a result of *USA Today's* reporting, the borough of Carteret, New Jersey, reached an agreement with the owners of a former metals-refining factory located in its community to do testing and cleanup of contaminated soil. Alison Young, *N.J. city reaches cleanup agreement with smelter company*, *USA Today* (Dec. 29, 2012), archived at <https://perma.cc/VL6A-JEZR>. Additionally, the EPA announced that it would spend over a million dollars to replace

soil in yards in Edison, New Jersey. Young, *EPA to clean NJ yards, others not tested, supra*.

USA Today's reporting did not stop there. For example, when the DEP concluded that no further investigation was needed of an old smelting site in Newark, NJ, that now has a public housing complex with a playground nearby – a recommendation signed off on by the EPA – USA Today followed up. Alison Young, *EPA finds poisonous lead at playground by old smelter*, USA Today (Feb. 15, 2013), archived at <https://perma.cc/9VVY-TEPP>. And, when USA Today questioned the EPA about the site, the agency conducted additional testing of the soil at the playground, and found lead contamination as high as 6,000 parts per million of lead, 15 times higher than the hazardous level for children's play areas. Id. As USA Today reporter, the site remained open to the public – including children – for days after the testing was completed before New Jersey officials scheduled it to be fenced off and later dismantled. Alison Young, *Newark Playground stayed unfenced despite contamination*, USA Today (Feb. 20, 2013), archived at <https://perma.cc/K77T-XWDB>.

If USA Today and its reporters had been prohibited from using OPRA, these stories that brought to light serious health risks for the citizens of New Jersey would not have been possible. Children in Edison, Newark, Carteret, and elsewhere would have continued to be exposed to dangerous amounts of lead, and their parents and the

public would have never known the cause. For them, the consequences of cutting off OPRA to non-citizens would have been disastrous.

B. Use of OPRA by out-of-state press has led to stories about the management of public funds by New Jersey government officials.

Use of OPRA by out-of-state news media has also provided residents of this State with important information about the management and expenditures of public funds by New Jersey state government. A 2014 story by the New York-based news organization ProPublica, for example, relied heavily on documents obtained under OPRA to explain how New Jersey helped plug a budget shortfall by refinancing bonds backed by tobacco settlements. See Cezary Podkul, *Behind New Jersey's Tobacco Bond Bailout, A Hedge Fund's \$100 Million Payday*, ProPublica (Dec. 30, 2014), archived at <https://perma.cc/AC4F-YDHX>. Documents obtained by the organization under OPRA, including emails, memos, and pitches by financial institutions, helped show how New Jersey essentially traded away long-term revenue streams in a deal that netted a hedge fund more than \$100 million in profits and bankers who brought the deal to the state treasurer approximately \$4.5 million in fees. Id. Stories like this allow the citizens of New Jersey to "monitor the operation of [their] government [and] hold public officials accountable for their actions." Fair Share Hous. Ctr., Inc., 207 N.J. 489, 502, 25 A.3d 1063, 1070 (quotation and citation omitted).

Just last year, *The Wall Street Journal*, another news organization based in New York, used OPRA to obtain invoices for taxpayer money spent providing security for Governor Chris Christie while he was on the campaign trail. Heather Haddon, *Democrats Push Chris Christie on Costs of Political Tips*, *The Wall Street Journal* (Jul. 22, 2015), <http://on.wsj.com/29yLdId>. The invoices showed that the governor's office spent \$185,000 in security-related costs over three months in 2015, a time during which the Governor was traveling around the country as a Republican presidential candidate. Id. State legislators upset with the costs subsequently introduced a bill that aimed to prevent the use of taxpayer funds for expenses incurred by a governor when traveling out of state for political activities. Id. As one publication reported, the costs and proposed legislation came at a time when "the Christie administration, citing budget concerns, [was] underfunding laws that dictate higher spending on local schools, public-employee pensions, and property-tax relief for seniors among other items." John Reitmeyer, *Irked by Christie's Campaign spending, Lawmakers Move to Limit Use of State Funds*, *NJSpotlight* (Jul. 24, 2015), archived at <https://perma.cc/TR2X-XLRJ>. In sum, records reflecting how much the governor's office was spending on Governor Christie's campaign-related travel, obtained by an out-of-state reporter for an out-of-state news organization, provided the citizens of New Jersey with much-needed

information about how their tax dollars were being spent, and even led to new legislative efforts to curb such spending.

C. Access to New Jersey records under OPRA allows out-of-state news media to report on issues of national importance.

Enabling out-of-state journalists and news organizations to obtain public records under OPRA benefits not only the citizens of New Jersey, but citizens of other states as well. Reporters around the country often use public records compiled from a number of states to craft stories about regional or national issues, or to put local events into a broader, national context. Barriers to out-of-state journalists' access to public records under OPRA would create gaps in such important reporting.

For example, in recent years substantial public attention has been given to use of force incidents by law enforcement, particularly as they relate to race. *The Washington Post*, based in the nation's capital, has created an evolving database cataloguing each and every person shot and killed by police in 2015 and 2016, and utilized it for a series of stories about such incidents. See, e.g., Kimberly Kindy, Marc Fisher, Julie Tate, & Jennifer Jenkins, *A Year of Reckoning: Police Fatally Shoot Nearly 1,000*, *The Washington Post* (Dec. 26, 2015), <http://wapo.st/1SgPwIh>. To facilitate its reporting, the *Post* is submitting public records requests for every shooting that takes place in 2016, of which there have been six so far in New Jersey.

See Fatal Force, The Washington Post, <http://wapo.st/1VFOBUi> (last accessed Aug. 25, 2016). If the *Post* or its reporters are denied access to records under OPRA simply because they are based in Washington, D.C., this comprehensive database on police shootings in the United States will be incomplete, skewing results and depriving both citizens of New Jersey and the rest of the nation of crucial information.

Singular stories of national importance are also frequently found in state public records. For instance, Republican presidential nominee Donald Trump's tax and financial history is an issue of immense public interest and concern this election year. See, e.g., Jeanne Sahadi, *Will Congress compel Trump to release his tax returns?* CNN (May 25, 2015), <http://cnnmon.ie/29PoQNM>. In March, the *Wall Street Journal* obtained public records under OPRA that provided some information about Mr. Trump's tax history. See Richard Rubin, *Donald Trump Got a Big Break on 2005 Taxes*, The Wall Street Journal (Mar. 17, 2016), <http://on.wsj.com/1UkiSHK>. Specifically, the records show that Mr. Trump was able to deduct \$39.1 million from his 2005 federal income taxes by pledging not to build houses on a golf course he owns in Bedminster, New Jersey. Id. That information was widely discussed throughout the nation, including in New Jersey. See, e.g., Brent Johnson, *Trump got big break because of N.J. golf club, report says*, nj.com (Mar. 18, 2016), archived at <https://perma.cc/TB49-RGW4>.

Even more recently, the *Washington Post* used OPRA to obtain records showing that the last time information on Mr. Trump's income tax returns was made public, he had not paid the federal government any money in income taxes. Drew Harwell, *Trump once revealed his income tax returns. They showed he didn't pay a cent.*, The Washington Post (May 21, 2016), archived at <https://perma.cc/W36F-GZQU>. The information came from a 1981 report by the New Jersey gambling commission; in connection with part of an application for a casino license, Mr. Trump submitted his returns from 1978-79, which showed he claimed an income during those years of negative \$3.8 million, allowing him to pay no taxes. Id. Subsequent OPRA requests by Politico, a news organization based in Virginia, produced records from the New Jersey Division of Gaming Control and the Casino Control Commission that showed that Mr. Trump paid zero or near-zero in personal income taxes in at least two years in the 1990s. Shane Goldmacher, *Trump appears to have paid no taxes for two years in early 1990s*, Politico (Jun. 17, 2016), archived at <https://perma.cc/YS2K-YHE2>.

These stories, widely reported around the country, are only examples of some of the many stories made possible through the use of OPRA by out-of-state journalists and news organizations that have made an impact not only in New Jersey, but nationwide.

CONCLUSION

For the reasons stated herein, *amici* urge this Court to find in favor of Plaintiff/Respondent and hold that any person is permitted to submit requests and obtain public records under OPRA.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Bruce S. Rosen", with a stylized flourish at the end.

Bruce S. Rosen, Esq.
McCusker, Anselmi, Rosen &
Carvelli, P.C.
210 Park Avenue, Suite 301
Florham Park, NJ 07932
Tel: 973.635.6300
Fax: 973.635.6363
Counsel of Record for amici

Dated: September 9, 2016

APPENDIX A

Descriptions of amici:

The Reporters Committee for Freedom of the Press is a voluntary, unincorporated association of reporters and editors that works to defend the First Amendment rights and freedom of information interests of the news media. The Reporters Committee has provided assistance and research in First Amendment and Freedom of Information Act litigation since 1970.

With some 500 members, American Society of News Editors ("ASNE") is an organization that includes directing editors of daily newspapers throughout the Americas. ASNE changed its name in April 2009 to American Society of News Editors and approved broadening its membership to editors of online news providers and academic leaders. Founded in 1922 as American Society of Newspaper Editors, ASNE is active in a number of areas of interest to top editors with priorities on improving freedom of information, diversity, readership and the credibility of newspapers.

Bloomberg L.P. operates Bloomberg News, a 24-hour global news service with more than 2,400 journalists in more than 120 countries. Bloomberg supplies real-time business, financial,

and legal news to approximately 325,000 subscribers to the Bloomberg Professional service world-wide and is syndicated to more than 1000 media outlets across more than 60 countries. Bloomberg Television is available in more than 340 million homes worldwide and Bloomberg Radio is syndicated to 200 radio affiliates nationally. In addition, Bloomberg publishes Bloomberg Businessweek, Bloomberg Markets and Bloomberg Pursuits magazines with a combined circulation of 1.4 million and Bloomberg.com receives more than 24 million visitors each month. In total, Bloomberg distributes news, information, and commentary to millions of readers and listeners each day.

Association of Alternative Newsmedia ("AAN") is a not-for-profit trade association for 130 alternative newspapers in North America, including weekly papers like The Village Voice and Washington City Paper. AAN newspapers and their websites provide an editorial alternative to the mainstream press. AAN members have a total weekly circulation of seven million and a reach of over 25 million readers.

The Center for Investigative Reporting (CIR) believes journalism that moves citizens to action is an essential pillar of democracy. Since 1977, CIR has relentlessly pursued and revealed injustices that otherwise would remain hidden from the public

eye. Today, we're upholding this legacy and looking forward, working at the forefront of journalistic innovation to produce important stories that make a difference and engage you, our audience, across the aisle, coast to coast and worldwide.

First Look Media Works, Inc. is a new non-profit digital media venture that produces The Intercept, a digital magazine focused on national security reporting.

Gannett Co., Inc. is an international news and information company that publishes 109 daily newspapers in the United States and Guam, including the Asbury Park Press, The Record (Bergen County), Courier News (Bridgewater), Courier-Post (Cherry Hill), Home News Tribune (East Brunswick), Daily Record (Morristown), The Daily Journal (Vineland), Herald News (Woodland Park) and USA TODAY. Each weekday, Gannett's newspapers are distributed to an audience of more than 8 million readers and the digital and mobile products associated with the company's publications serve online content to more than 100 million unique visitors each month.

The Media Consortium is a network of the country's leading, progressive, independent media outlets. Our mission is to

amplify independent media's voice, increase our collective clout, leverage our current audience and reach new ones.

The National Press Photographers Association ("NPPA") is a 501(c)(6) non-profit organization dedicated to the advancement of visual journalism in its creation, editing and distribution. NPPA's approximately 7,000 members include television and still photographers, editors, students and representatives of businesses that serve the visual journalism industry. Since its founding in 1946, the NPPA has vigorously promoted the constitutional rights of journalists as well as freedom of the press in all its forms, especially as it relates to visual journalism. The submission of this brief was duly authorized by Mickey H. Osterreicher, its General Counsel.

The New York Times Company is the publisher of The New York Times and The International Times, and operates the news website nytimes.com.

The News Media Alliance is a nonprofit organization representing the interests of online, mobile and print news publishers in the United States and Canada. Alliance members account for nearly 90% of the daily newspaper circulation in the United States, as well as a wide range of online, mobile and non-daily print

publications. The Alliance focuses on the major issues that affect today's news publishing industry, including protecting the ability of a free and independent media to provide the public with news and information on matters of public concern.

Newsday LLC ("Newsday") is the publisher of the daily newspaper, Newsday, and related news websites. Newsday is one of the nation's largest daily newspapers, serving Long Island through its portfolio of print and digital products. Newsday has received 19 Pulitzer Prizes and other esteemed awards for outstanding journalism.

The News Guild - CWA is a labor organization representing more than 30,000 employees of newspapers, newsmagazines, news services and related media enterprises. Guild representation comprises, in the main, the advertising, business, circulation, editorial, maintenance and related departments of these media outlets. The News Guild is a sector of the Communications Workers of America. CWA is America's largest communications and media union, representing over 700,000 men and women in both private and public sectors.

Online News Association ("ONA") is the world's largest association of online journalists. ONA's mission is to inspire

innovation and excellence among journalists to better serve the public. ONA's more than 2,000 members include news writers, producers, designers, editors, bloggers, technologists, photographers, academics, students and others who produce news for the Internet or other digital delivery systems. ONA hosts the annual Online News Association conference and administers the Online Journalism Awards. ONA is dedicated to advancing the interests of digital journalists and the public generally by encouraging editorial integrity and independence, journalistic excellence and freedom of expression and access.

ProPublica is an independent, nonprofit newsroom that produces investigative journalism in the public interest. In 2010, it was the first online news organization to win a Pulitzer Prize. In 2011, ProPublica won its second Pulitzer, the first ever awarded to a body of work that did not appear in print. This year, ProPublica was awarded its third Pulitzer. In 2014, ProPublica won a MacArthur Award for Creative and Effective Leadership. ProPublica is supported primarily by philanthropy and offers its articles for republication, both through its website, propublica.org, and directly to leading news organizations selected for maximum impact.

Society of Professional Journalists ("SPJ") is dedicated to improving and protecting journalism. It is the nation's largest and most broad-based journalism organization, dedicated to encouraging the free practice of journalism and stimulating high standards of ethical behavior. Founded in 1909 as Sigma Delta Chi, SPJ promotes the free flow of information vital to a well-informed citizenry, works to inspire and educate the next generation of journalists and protects First Amendment guarantees of freedom of speech and press.

The Tully Center for Free Speech began in Fall, 2006, at Syracuse University's S.I. Newhouse School of Public Communications, one of the nation's premier schools of mass communications.

WP Company LLC (d/b/a The Washington Post) publishes one of the nation's most prominent daily newspapers, as well as a website, www.washingtonpost.com, that is read by an average of more than 20 million unique visitors per month.

APPENDIX B

Of counsel:

Kevin M. Goldberg
Fletcher, Heald & Hildreth,
PLC
1300 N. 17th St., 11th Floor
Arlington, VA 22209
*Counsel for American Society
of News Editors*

Kevin M. Goldberg
Fletcher, Heald & Hildreth,
PLC
1300 N. 17th St., 11th Floor
Arlington, VA 22209
*Counsel for Association of
Alternative Newsmedia*

Randy L. Shapiro
Global Media Counsel
Bloomberg LP
731 Lexington Avenue
New York, NY 10022

Judy Alexander
Chief Legal Counsel
The Center for Investigative
Reporting
2302 Bobcat Trail
Soquel, CA 95073

Lynn Oberlander
General Counsel, Media
Operations
First Look Media Works, Inc.
18th Floor
114 Fifth Avenue
New York, NY 10011

Barbara W. Wall
Senior Vice President & Chief
Legal Officer
Gannett Co., Inc.
7950 Jones Branch Drive
McLean, VA 22107
703)854-6951

Mickey H. Osterreicher
1100 M&T Center, 3 Fountain
Plaza,
Buffalo, NY 14203
*Counsel for National Press
Photographers Association*

David McCraw
V.P./Assistant General
Counsel
The New York Times Company
620 Eighth Avenue
New York, NY 10018

Kurt Wimmer
Covington & Burling LLP
850 10th Street NW
Washington, DC 20001
*Counsel for the News Media
Alliance*

Dina Sforza, Esq.
VP/General Counsel
Newsday LLC
235 Pinelawn Road
Melville, NY 11747

Barbara L. Camens
Barr & Camens
1025 Connecticut Ave., NW
Suite 712
Washington, DC 20036
*Counsel for The Newspaper
Guild - CWA*

Bruce D. Brown
Katie Townsend
Adam A. Marshall
The Reporters Committee for
Freedom of the Press
1156 15th St. NW, Suite 1250
Washington, D.C. 20005

Bruce W. Sanford
Mark I. Bailen
James Romoser
Baker & Hostetler LLP
1050 Connecticut Ave., NW
Suite 1100
Washington, DC 20036
*Counsel for Society of
Professional Journalists*

John B. Kennedy
James A. McLaughlin
Kalea S. Clark
The Washington Post
1150 15th Street, N.W.
Washington, D.C. 20071