

Court of Appeals
of the
State of New York

LUKASZ GOTTWALD p/k/a Dr. Luke, KASZ MONEY, INC.
and PRESCRIPTION SONGS, LLC,

Plaintiffs-Respondents,

– against –

KESHA ROSE SEBERT p/k/a Kesha,

Defendant-Appellant,

– and –

PEBE SEBERT, VECTOR MANAGEMENT, LLC and JACK ROVNER,

Defendants.

(For Continuation of Caption See Inside Cover)

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE*
THE REPORTERS COMMITTEE FOR FREEDOM OF THE
PRESS AND 28 MEDIA ORGANIZATIONS IN SUPPORT OF
DEFENDANT-APPELLANT KESHA ROSE SEBERT**

EUGENE VOLOKH
FIRST AMENDMENT CLINIC
UCLA SCHOOL OF LAW
385 Charles E. Young Dr. E
Los Angeles, California 90095
Tel.: (310) 206-3926
volokh@law.ucla.edu

EILEEN MONAGHAN DELUCIA
BRIAN T. GOLDMAN
PRISHIKA RAJ
HOLWELL SHUSTER & GOLDBERG LLP
425 Lexington Avenue, 14th Floor
New York, New York 10017
Tel.: (646) 837-5151
Fax: (646) 837-5150
edelucia@hsgllp.com

Attorneys for Amici Curiae

KESHA ROSE SEBERT p/k/a Kesha,

Counterclaim-Plaintiff-Appellant,

– against –

LUKASZ GOTTWALD p/k/a Dr. Luke, KASZ MONEY, INC.
and PRESCRIPTION SONGS, LLC,

Counterclaim-Defendants-Respondents.

PLEASE TAKE NOTICE, that, upon the accompanying proposed brief of *amici curiae*, The Reporters Committee for Freedom of the Press (the “Reporters Committee”) and 28 Media Organizations will move this Court, on March 27, 2023 at 9:30 a.m., or as soon as counsel may be heard, at 20 Eagle Street, Albany, New York 12207, for an order granting the Reporters Committee and 28 Media Organizations leave to file a brief, *amici curiae*, in support of Defendant-Appellant Kesha Rose Sebert.

The grounds for the motion are that The Reporters Committee and 28 Media Organizations are in a position to offer the perspective of news organizations and organizations that advocate for the First Amendment rights of the press and the public. As discussed in their proposed *amici curiae* brief, the Reporters Committee is an unincorporated nonprofit association founded by leading journalists and media lawyers in 1970. Other *amici* are prominent news publishers and professional, trade, and

academic groups, all of whom share an interest in preventing the misapplication of the public figure standard. Law and arguments that might otherwise not be brought to the Court's attention, and that we respectfully submit would be of assistance to the Court, are set forth in the proposed *amici curiae* brief submitted herewith. For the same reasons, the Reporters Committee, along with certain Media Organizations, filed a brief *amici curiae* at an earlier stage of these proceedings urging the Court to grant leave to appeal, and the Reporters Committee and 28 Media Organizations now respectfully wish to offer their perspective on the merits.

Dated: March 3, 2023
NEW YORK, NEW YORK

Respectfully submitted,

EILEEN MONAGHAN DELUCIA
HOLWELL SHUSTER &
GOLDBERG LLP
425 Lexington Ave.
New York, NY 10017
(646) 837-5158
edelucia@hsgllp.com

EUGENE VOLOKH*
FIRST AMENDMENT CLINIC
UCLA SCHOOL OF LAW
405 Hilgard Ave.
Los Angeles, CA 90095
(310) 206-3926
volokh@law.ucla.edu

*Application for admission *pro hac*
vice pending

Counsel for Proposed Amici Curiae

To: Christine Lepera
Jeffrey M. Movit
MITCHELL SILBERBERG & KNUPP LLP
437 Madison Avenue, 25th Floor
New York, New York 10022

Anton Metlitsky
Leah Godesky
Yaira Dubin
O'MELVENY & MYERS LLP
Time Square Tower
7 Times Square
New York, New York 10036

CORPORATE DISCLOSURE STATEMENT

Pursuant to 22 N.Y.C.R.R. § 500.1(f), the undersigned counsel for amici curiae certify as follows:

The Reporters Committee for Freedom of the Press is an unincorporated association of reporters and editors. It has no parent, subsidiaries, or affiliates.

Advance Publications, Inc. (“Advance”) has no parent corporation and no publicly held corporation owns any of its stock. Its operating companies are Condé Nast, Advance Local, ACBJ, Stage Entertainment, The IRONMAN Group, American City Business Journals, Leaders Group, Turnitin, 1010data, and POP. Advance is a shareholder in Charter Communications, Warner Bros. Discovery, and Reddit.

BuzzFeed Inc. is a privately owned company, and National Broadcasting Company (NBC) owns 10% or more of its stock. HuffPost is an indirectly held subsidiary of BuzzFeed, Inc., as is Complex Networks.

The Center for Investigative Reporting (d/b/a Reveal) is a California non-profit public benefit corporation that is tax-exempt under section 501(c)(3) of the Internal Revenue Code. It has no parent, subsidiaries, or affiliates.

The Daily Beast Company LLC is a wholly-owned indirect subsidiary of IAC/InterActiveCorp. It has no subsidiaries. Its parents and affiliates are:

- 24apps GmbH
- AB Licensing, LLC
- About Dotdash UK Limited
- About Insurance Solutions, LLC
- Accellab, LLC
- AHCW, Inc.
- Allrecipes.com, Inc.
- Angi Contracting LLC
- ANGI Group, LLC
- Angi Inc.
- Angi Roofing, LLC
- Angie's List, Inc.
- Apalon Apps LLC
- Apalon LT UAB
- Apalon, LLC
- APN, LLC
- Applications Partner, LLC

- Ask Applications, Inc.
- Ask Media Group, LLC
- Big Communications L.L.C.
- Bizrate Insights Inc.
- Book-Of-The-Month Club, LLC
- Breedlove & Associates, L.L.C.
- Business 2.0 Media, LLC
- Care Concierge, Inc.
- Care International Exchange, Inc.
- Care.com Australia Pty Limited
- Care.com Europe GmbH
- Care.com Europe Ltd.
- Care.com Securities Corporation
- Care.com Services, LLC
- Care.com Switzerland AG
- Care.com, Inc.
- CareZen Family Solutions, Inc.

- Clime Weather Service, LLC
- Comedy News Ventures, Inc.
- Conceptiv Apps LLC
- Confide, Inc.
- ConsumerSearch, Inc.
- CraftJack Inc.
- Customly LLC
- CV Acquisition Corp.
- Dotdash Media Inc.
- Dotdash Meredith, Inc.
- Eating Well, LLC
- Efundraising.com Corporation Incorporated
- Entertainment Weekly, LLC
- Epic Applications, LLC
- Falcon Holdings II, LLC
- Filios, Inc.
- Fixd Repair, LLC

- Fixd Services, LLC
- Four M Studios LLC
- Gift Services Company, LLC
- HAI Holding B.V.
- Handy Contracting, LLC
- Handy Platform Limited
- Handy Technologies, Inc.
- HandyBook Canada ULC
- Health Media Ventures Inc.
- Healthy Living, Inc.
- Hello Giggles, Inc.
- HL Productions, LLC
- HLVP Follow On Fund GP, LLC
- HLVP Follow On Fund, L.P.
- HLVP I GP, LLC
- HLVP I, L.P.
- HLVP II GP, LLC

- HLVP II Token, LLC
- HLVP II, L.P.
- HLVP III GP, LLC
- HLVP III, L.P.
- Home Advisor Limited
- HomeAdvisor GmbH
- HomeAdvisor International, LLC
- HomeAdvisor, Inc.
- HomeStars, Inc.
- HP Holdings, LLC
- HSN Capital LLC
- HSN, LLC
- HTRF Ventures, LLC
- Hyperfactory IT Services India Private Limited
- IAC 19th St. Holdings, LLC
- IAC Applications Holding Limited Partnership
- IAC Applications, LLC

- IAC Charitable Foundation, Inc.
- IAC Falcon Holdings III, LLC
- IAC Falcon Holdings, LLC
- IAC FinanceCo 4, Inc.
- IAC Group, LLC
- IAC NewCo LLC
- IAC Publishing Holding Limited Partnership
- IAC Search & Media Brands, Inc.
- IAC Search & Media Europe Limited
- IAC Search & Media Technologies FinanceCo II
- IAC Search & Media Technologies Limited
- IAC Search & Media UK Limited
- IAC Search & Media, Inc.
- IAC Search, LLC
- IAC Shopping International, Inc.
- IAC Work, LLC
- IAC/Expedia Global, LLC

- ImproveNet, Inc.
- InstantAction, LLC
- Instapro I AG
- Instapro II AG
- InterActiveCorp Films, Inc.
- InterActiveCorp Films, LLC
- InterCaptiveCorp, Ltd.
- International Publishing Corporation Limited
- Investopedia Canada, Inc.
- Investopedia LLC
- iTranslate GmbH
- Kit Reno Inc.
- League Sports Services LLC
- LeagueAthletics.com LLC
- Legacy AMS, LLC
- Liberty Street Studios LLC
- Life Inc.

- LifeCare Marketplace, Inc.
- LifeCare, Inc.
- LifeMart Insurance Services, Inc.
- Living the Country Life L.L.C.
- LMIS Captive Corporation
- Locust Street Insurance Company
- Locust Street Studios LLC
- Loyalty Extras, Inc.
- Maghound Enterprises Inc.
- Meredith Brasil Holdings, Ltda
- Meredith Funding Corporation
- Meredith Gift Cards, LLC
- Meredith Holding Company
- Meredith Holdings Corporation
- Meredith India Services Private Limited
- Meredith Lifestyle Marketing, LLC
- Meredith Operations Corporation

- Meredith Pension Trustee Ltd.
- Meredith Performance Marketing, LLC
- Meredith Shopper Marketing, LLC
- Meredith Video, L.L.C.
- Mexico Magazines Holdings LLC
- MH Handwerksleistungen Berlin UG
- Mhelpdesk, Inc.
- Mile High Insights, LLC
- MNI Targeted Media Inc.
- Mosaic Croatia d.o.o
- Mosaic Group Holdings, LLC
- MyBuilder Limited
- MyBuilder Plus Limited
- MyHammer GmbH
- MyLife, Inc.
- MyWedding LLC
- Newsub Magazine Services LLC

- NSSI Holdings Inc.
- Oar Health, LLC
- Ornica sp z.o.o.
- Oxmoor House, Inc.
- Publishing Partner, LLC
- QSP Distribution Services, LLC
- Quality Service Programs Inc.
- Real Simple Productions, Inc.
- Rural Life, L.L.C.
- Schlepp, Inc.
- Selectable Media Inc.
- Shanghai Apalon Software Dev Co
- Shanghai iTranslate Software Dev Co
- ShopNation, Inc.
- SirenServ, Inc.
- Slimware Utilities Holdings, Inc.
- Southern Progress Corporation

- Sports Digital Games, Inc.
- Sports Features Inc.
- Sports Play LLC
- Sports Signup Inc.
- Starnet Interactive, Inc.
- Styleclick, Inc.
- StyleFeeder Inc.
- Successful Aging, Inc.
- Synapse Group, Inc.
- Synapse Services, LLC
- TDB Holdings, Inc.
- TelTech Systems, Inc.
- The Daily Beast Company LLC
- The Picture Collection, LLC
- Thriveport, LLC
- TI Administrative Holdings LLC
- TI Asia (Hong Kong) Limited

- TI Asia Holdings, LLC
- TI Atlantic Europe Holdings Limited
- TI Books Holdings LLC
- TI Business Ventures Inc.
- TI Canada Ltd.
- TI Circulation Holdings LLC
- TI Consumer Marketing, Inc.
- TI Corporate Holdings LLC
- TI Customer Service, Inc.
- TI Direct Ventures LLC
- TI Distribution Holdings LLC
- TI Distribution Services, LLC
- TI European Holdings Limited
- TI Experiential, LLC
- TI Golf Holdings Inc.
- TI Gotham Inc.
- TI Inc. Affluent Media Group

- TI Inc. Books
- TI Inc. Domestic Licensing
- TI Inc. Food Studio Productions LLC
- TI Inc. Play
- TI Inc. Ventures
- TI Interactive, LLC
- TI International Fulfillment Services B.V.
- TI International Holdings Inc.
- TI Lifestyle Group, LLC
- TI Live Events Inc.
- TI Magazine Holdings Limited
- TI Magazine Holdings LLC
- TI Magazine Services LLC
- TI Magazine Services Sdn Bhd
- TI Magazines Europe Ltd.
- TI Mailing Services LLC
- TI Marketing Services Inc.

- TI Media Solutions Inc.
- TI Mexico Holdings Inc.
- TI Paperco Inc.
- TI Parsippany Inc.
- TI Publications Inc. De Mexico S.A. DE C.V.
- TI Publishing Ventures, Inc.
- TI Real Estate Services Inc.
- TI Retail Canada Inc.
- TI Retail Service Group, LLC
- TI Retail, LLC
- TI Sales Holdings LLC
- TI Shared Services Inc.
- TI Sports Productions, LLC
- TI Sports Ventures, LLC
- TI TV Corporation
- Total Home Roofing, LLC
- Town & Country Resources, Inc.

- Travaux.com S.à.r.l.
- Upside Enterprises, LLC
- Upside Manager, LLC
- Upside Marketplace Holdings, LLC
- Upside Marketplace, LLC
- Upside Series I, LLC
- USA Video Distribution LLC
- USANi LLC
- USANi Sub LLC
- Vertical Media Solutions Inc.
- Viant Technology Holding Inc.
- Vivian Health, Inc.
- Wanderspot LLC
- WD Productions LLC
- We are Mop! Limited
- Werkspot BV
- Xumo JV Holdings LLC

Daily News, L.P. is a limited partnership, the general partner of which is TRX Pubco LLC, a private entity. Daily News, L.P. has one subsidiary, Kearney Property Corp. There are no other affiliates.

The E.W. Scripps Company is a publicly traded company with no parent company. No individual stockholder owns more than 10% of its stock. Its subsidiaries are as follows:

- Media Convergence Group, Inc.
- Scripps National Spelling Bee, Inc.
- Scripps Licensing, Inc.
- Scripps Broadcasting Holdings LLC
- Journal Holdings, Inc.
- Scripps Media, Inc.
- ION Media Networks, Inc.
- Scripps Shared Services Company
- Scripps UK Holdings, LLC
- Scripps National Division Holding Company
- Scribion Broadcasting Holdings, LLC
- Scribion Broadcasting, LLC

- Scribion Rights Holdings, LLC
- Grit Media, LLC
- Laff Media, LLC
- Escape Media, LLC
- Bounce Media, LLC
- Trumpet Media, LLC
- Brown Sugar, LLC
- Court TV Media, LLC
- ION Media Stations, Inc.
- ION Station Properties, LLC
- ION Station Equipment, LLC
- ION Station Leases, LLC
- ION Television License, LLC
- ION Media Boston License, LLC
- ION Media Networks Real Property, LLC
- ION Media Networks Operations, LLC
- ION Media License Company, LLC

- Airbox Television, Inc.
- Nuvyyo USA, LLC
- Nuvyyo, Inc.

Freedom of the Press Foundation is a 501(c)(3) non-profit organization. It has no parent, subsidiaries, or affiliates.

Gannett Co., Inc. is a publicly traded company and has no affiliates or subsidiaries that are publicly owned. BlackRock, Inc. and the Vanguard Group, Inc. each own ten percent or more of the stock of Gannett Co., Inc. Gannett Co. Inc.'s subsidiaries are as follows:

- Action Advertising, Inc.
- AfterCollege, Inc.
- Albuquerque Publishing Company
- Alexandria Newspapers, Inc.
- American Influencer Awards, LLC
- Archant Community Media Limited
- Arizona News Service, LLC
- Baxter County Newspapers, Inc.
- Bizzy, Inc.

- Blue Dot Seats, LLC
- Boat Spinco, Inc.
- BridgeTower Media DLN, LLC
- BridgeTower Media Holding Company
- BridgeTower Media, LLC
- CA Alabama Holdings, Inc.
- CA Florida Holdings, LLC
- CA Louisiana Holdings, Inc.
- CA Massachusetts Holdings, Inc.
- CA North Carolina Holdings, Inc.
- CA South Carolina Holdings, Inc.
- Circle Centre Partners Limited Partnership
- Citizen Publishing Company
- CMGI (Moduslink)
- Copley Ohio Newspapers, Inc.
- Cummings Acquisition, LLC
- CyberInk, LLC

- Daily Journal of Commerce, Inc.
- Daily Reporter Publishing Company
- DB Acquisition, Inc.
- DB Arkansas Holdings, Inc.
- DB Iowa Holdings, Inc.
- DB North Carolina Holdings, Inc.
- DB Oklahoma Holdings, Inc.
- DB Tennessee Holdings, Inc.
- DB Texas Holdings, Inc.
- DB Washington Holdings, Inc.
- DealOn, LLC
- Des Moines Press Citizen LLC
- Des Moines Register and Tribune Company
- Desert Sun Publishing, LLC
- Desk Spinco, Inc.
- Detroit Free Press, Inc.
- Detroit Newspaper Partnership, L.P.

- DiGiCol, Inc.
- Dolco Acquisition, LLC
- DoorFront Direct, LLC
- ENHE Acquisition, LLC
- EnMotive Company LLC
- Enterprise NewsMedia Holding, LLC
- Enterprise NewsMedia, LLC
- Enterprise Publishing Company, LLC
- Evansville Courier Company, Inc.
- Federated Publications, Inc.
- Finance and Commerce, Inc.
- FoodBlogs, LLC
- Gannett GP Media, Inc.
- Gannett Holdings LLC
- Gannett International Communications, Inc.
- Gannett International Finance LLC
- Gannett International Finance LLP

- Gannett International Holdings LLP
- Gannett Media Corp.
- Gannett Media Services, LLC
- Gannett MHC Media, Inc.
- Gannett Missouri Publishing, Inc.
- Gannett Publishing Services, LLC
- Gannett Retail Advertising Group, Inc.
- Gannett River States Publishing Corporation
- Gannett Satellite Information Network, LLC
- Gannett SB, Inc.
- Gannett Supply Corporation
- Gannett U.K. Limited
- Gannett UK Media, LLC
- Gannett Ventures LLC
- Gannett Vermont Publishing, Inc.
- GateHouse Media Alaska Holdings, Inc.
- GateHouse Media Arkansas Holdings, Inc.

- GateHouse Media California Holdings, Inc.
- GateHouse Media Colorado Holdings, Inc.
- GateHouse Media Connecticut Holdings, Inc.
- GateHouse Media Corning Holdings, Inc.
- GateHouse Media Delaware Holdings, Inc.
- GateHouse Media Directories Holdings, Inc.
- GateHouse Media Freeport Holdings, Inc.
- GateHouse Media Georgia Holdings, Inc.
- GateHouse Media Holdco, LLC
- GateHouse Media Illinois Holdings II, Inc.
- GateHouse Media Illinois Holdings, Inc.
- GateHouse Media Indiana Holdings, Inc.
- GateHouse Media Intermediate Holdco, LLC
- GateHouse Media Iowa Holdings, Inc.
- GateHouse Media Kansas Holdings II, Inc.
- GateHouse Media Kansas Holdings, Inc.
- GateHouse Media Lansing Printing, Inc.

- GateHouse Media Louisiana Holdings, Inc.
- GateHouse Media Macomb Holdings, Inc.
- GateHouse Media Management Services, Inc.
- GateHouse Media Maryland Holdings, Inc.
- GateHouse Media Massachusetts I, Inc.
- GateHouse Media Massachusetts II, Inc.
- GateHouse Media Michigan Holdings II, Inc.
- GateHouse Media Michigan Holdings, Inc.
- GateHouse Media Minnesota Holdings, Inc.
- GateHouse Media Missouri Holdings II, Inc.
- GateHouse Media Missouri Holdings, Inc.
- GateHouse Media Nebraska Holdings, Inc.
- GateHouse Media New York Holdings, Inc.
- GateHouse Media North Dakota Holdings, Inc.
- GateHouse Media Ohio Holdings II, Inc.
- GateHouse Media Ohio Holdings, Inc.
- GateHouse Media Oklahoma Holdings, Inc.

- GateHouse Media Operating, LLC
- GateHouse Media Oregon Holdings, Inc.
- GateHouse Media Pennsylvania Holdings, Inc.
- GateHouse Media South Dakota Holdings, Inc.
- GateHouse Media Suburban Newspapers, Inc.
- GateHouse Media Tennessee Holdings, Inc.
- GateHouse Media Texas Holdings II, Inc.
- GateHouse Media Texas Holdings, Inc.
- GateHouse Media Virginia Holdings, Inc.
- GateHouse Media, LLC
- GCCC, LLC
- GCOE, LLC
- George W. Prescott Publishing Company, LLC
- GFHC, LLC
- GiddyUp Events LLC
- GNSS LLC
- Good Worldwide, Inc.

- Grateful Media, LLC
- Guam Publications, Incorporated
- Idaho Business Review, LLC
- Imagn Content Services, LLC
- Journal Community Publishing Group, Inc.
- Journal Media Group, Inc.
- Journal Sentinel Inc.
- Kickserv, LLC
- Lawyer's Weekly, LLC
- Liberty SMC, L.L.C.
- LMG Maine Holdings, Inc.
- LMG Massachusetts, Inc.
- LMG Nantucket, Inc.
- LMG National Publishing, Inc.
- LMG Rhode Island Holdings, Inc.
- LMG Stockton, Inc.
- Local Media Group Holdings LLC

- Local Media Group, Inc.
- LocaliQ Limited
- LOCALiQ LLC
- Loco Sports, LLC
- Long Island Business News, LLC
- Low Realty, LLC
- LRT Four Hundred, LLC
- Media Consortium, LLC
- Memphis Publishing Company
- Milwaukee Marathon LLC
- Mineral Daily News Tribune, Inc.
- Missouri Lawyers Media, LLC
- Moonlighting, Inc.
- Multimedia, Inc.
- New Media Holdings I LLC
- New Media Holdings II LLC
- New Media Ventures Group LLC

- New Orleans Publishing Group, L.L.C.
- News Leader, Inc.
- News.me Inc.
- Newsquest (Clyde & Forth Press) Limited
- Newsquest (Essex) Limited
- Newsquest (Herald & Times) Limited
- Newsquest (Herts and Bucks) Limited
- Newsquest (London & Essex) Limited
- Newsquest Capital Limited
- Newsquest Limited
- Newsquest Media (Southern) Limited
- Newsquest Media Group Limited
- Newsquest Pension Trustee Limited
- Newsquest Printing (Glasgow) Limited
- Newsquest Specialist Media Limited
- NOPG, L.L.C.
- PA Group Ltd.

- Pacific Media, Inc.
- Phoenix Newspapers, Inc.
- Placester, Inc.
- Press-Citizen Company, Inc.
- Reach plc
- ReachLocal Australia Pty Ltd
- ReachLocal Canada, Inc.
- ReachLocal DP, Inc.
- ReachLocal International GP LLC
- ReachLocal International, Inc.
- ReachLocal Mexico S. De R.L. de C.V.
- ReachLocal New Zealand Limited
- ReachLocal Services Private Limited
- ReachLocal, Inc.
- Reno Newspapers, Inc.
- Rugged Events Canada LTD
- Salinas Newspapers LLC

- Scripps NP Operating, LLC
- Scroll Labs Inc.
- Seacoast Newspapers, Inc.
- Sedona Publishing Company, Inc.
- Sopress Investments Limited
- Starline Printing Company, LLLP
- SureWest Directories
- Tap-on-it, LLC
- Terry Newspapers, Inc.
- Texas-New Mexico Newspapers, LLC
- Thanksgiving Ventures, LLC
- The Advertiser Company
- The Courier-Journal, Inc.
- The Daily Record Company, LLC
- The Desert Sun Publishing Co.
- The Journal Record Publishing Co., LLC
- The Mail Tribune, Inc.

- The Nickel of Medford, Inc.
- The NWS Company, LLC
- The Peoria Journal Star, Inc.
- The Sun Company of San Bernardino, California LLC
- The Times Herald Company
- ThriveHive, Inc.
- timeRAZOR, Inc. (d/b/a Gravy)
- TNI Partners
- TRL 2019 Limited
- UpCurve Cloud LLC
- UpCurve, Inc.
- USA Today Sports Media Group, LLC
- Ventures Endurance Events, LLC
- Ventures Endurance, LLC
- Visalia Newspapers LLC
- Weymouth Football Club
- William Trimble Limited

- Wordstream, Inc.
- WP Publishing
- W-Systems Corp.
- x.com, Inc.
- York Daily Record-York Sunday News LLC
- York Dispatch LLC
- York Newspaper Company
- York Newspapers Holdings, L.P.
- York Newspapers Holdings, LLC
- York Partnership Holdings, LLC

The International Documentary Association is a not-for-profit organization with no parent corporation and no stock. It has no parent, subsidiaries, or affiliates.

The Media Institute is a 501(c)(3) non-stock corporation with no parent corporation. It has no parent, subsidiaries, or affiliates.

MediaNews Group Inc. is a privately held company. No publicly-held company owns ten percent or more of its equity interest. Its subsidiaries are as follows:

- Long Beach Publishing Company
- Monterey Newspapers Partnership

- California Newspapers Partnership
- West Coast MediaNews LLC
- Torrance Holdings LLC
- Los Angeles Daily News Publishing Company
- Northwest Publications, LLC
- Eastern Colorado Publishing Company
- DP Media Network LLC
- San Jose Mercury-News, LLC
- Contra Costa Newspapers, LLC
- Bay Area News Group-East Bay LLC

National Newspaper Association is a non-stock nonprofit Florida corporation. It has no parent, subsidiaries, or affiliates.

National Press Photographers Association is a 501(c)(6) nonprofit organization with no parent company. It has no parent, subsidiaries, or affiliates.

The New York News Publishers Association has no parent, subsidiaries, or affiliates.

New York Public Radio is a privately supported, not-for-profit organization that has no parent company and issues no stock. It includes WNYC, WQXR, WNYC

Studios, Gothamist, The Jerome L. Greene Performance Space, and New Jersey Public Radio.

The New York Times Company's parents, subsidiaries, and affiliates are as follows:

- Parents: The New York Times Company is a public traded company with no parent corporation.
- Subsidiaries and Affiliates:
 - Fake Love LLC
 - Hello Society, LLC
 - Listen In Audio Inc.
 - Madison Paper Industries
 - New York Times Canada Ltd.
 - New York Times Digital LLC
 - Northern SC Paper Corporation
 - NYT Administradora de Bens e Servicos Ltda.
 - NYT Building Leasing Company LLC
 - NYT Capital, LLC
 - Midtown Insurance Company

- NYT Shared Service Center, Inc.
 - International Media Concepts, Inc.
- The New York Times Distribution Corporation
- The New York Times Sales Company
- The New York Times Syndication Sales Corporation
- NYT College Point LLC
- NYT Group Services, LLC
- NYT International LLC
 - New York Times Limited
 - New York Times (Zürich) GmbH
 - NYT B.V.
 - NYT France S.A.S.
 - International Herald Tribune U.S. Inc.
 - New York Times France-Kathimerini Commercial S.A.
 - The Herald Tribune - Ha'aretz Partnership
 - NYT Germany GmbH
 - NYT Hong Kong Limited

- Beijing Shixun Zhihua Consulting Co. LTD.
 - NYT International News LLC
 - NYT Japan GK
 - NYT Singapore PTE LTD
 - NYT Poland sp. z o.o.
- NYT News Bureau (India) Private Limited
- NYT Real Estate Company LLC
 - The New York Times Building LLC
- Rome Bureau S.r.l.
- Serial Productions LLC
- The Athletic Media Company
 - The Athletic Media Company Australia Pty Ltd.
 - The Athletic Media Company Canada Ltd
 - The Athletic Media Company UK Ltd.
 - The Athletic Media (Malaysia) SDN. BHD
- The New York Times Company Pty Limited
- Wirecutter, Inc.
- The New York Times Neediest Cases Fund

NewCoNews, Inc., publisher of The Intercept is a non-profit non-stock corporation. It has no parent, subsidiaries, or affiliates.

The News Leaders Association is a 501(c)(3) non-profit organization. It has no parent, subsidiaries, or affiliates.

News/Media Alliance is a nonprofit, non-stock corporation organized under the laws of the commonwealth of Virginia. It has no parent, subsidiaries, or affiliates.

The parent company of **Nexstar Media Inc.** is Nexstar Media Group, Inc. Its sole subsidiary is The CW Network, LLC.

Newsday LLC is a Delaware limited liability company whose members are Tillandsia Media Holdings LLC and The Charles F. Dolan 2014 Children Trust FBO Patrick F. Dolan. It has no subsidiaries or affiliates.

Online News Association is a not-for-profit organization. It has no parent, subsidiaries, or affiliates.

Penguin Random House LLC is a limited liability company whose ultimate parent corporation is Bertelsmann SE & Co. KGaA, a privately-held company. Its parents, affiliates, and subsidiaries are as follows:

- Bertelsmann, Inc.
 - Bertelsmann Publishing Group, Inc.

- PRH Publications LLC
- PRH Holdings LLC
 - Penguin Random House LLC
 - Random House Children’s Entertainment LLC
 - Golden Treasures LLC
 - Penguin Random House Grupo Editorial (USA) LLC
 - Sasquatch Books LLC
 - Frederick Warne & Co. LLC
 - Sourcebooks, LLC (52.99%)
 - DK Publishing LLC
 - RG Special Purpose LLC
 - Rebel Girls, Inc. (8.5%)
 - Playaway Products LLC
 - Offset Paperback MFRS., Inc.
 - Berryville Graphics, Inc.
 - Coral Graphics Services, Inc.
 - arvato systems North America, Inc

- arvato digital services llc
 - arvato entertainment llc
- Offset Paperback MFRS., Inc.
- BMG Rights Management (US) LLC
 - BMG Production Music, Inc.
 - R&B Music LLC (50%)
 - Rise Records, Inc.
 - BMG Audio Visual Productions LLC
 - This is Hit, Inc.
- Bertelsmann PRH Finance, Inc.
- Bertelsmann Digital Media Investments, Inc
- Bertelsmann Ventures, Inc.
 - BV Capital Fund II-A, L.P. (99%)
- Bertelsmann Digital Health, Inc.
- University Ventures Fund I, L.P. (47.27%)
- University Ventures Fund II, L.P. (55.1%)
- Stern Magazine Corp.
- Bertelsmann Accounting Services, Inc.

- RTL NY, Inc.
- Adjoe, Inc.
- Bertelsmann Health & Human Science Education LLC
 - Versidi, Inc.
 - Teach Us, Inc.
 - Arist Education System Fund LP (99.9997%)
 - Arist Education System LLC (85.0%)
 - Alliant International University, Inc.
 - SFLS, Inc.
- Bertelsmann Learning LLC
 - Relias LLC
- Bertelsmann Education Services LLC
 - Hotchalk LLC
- OCL Professional Education, Inc.
- Majorel USA Holding, Inc.
- Majorel USA, Inc.

Radio Television Digital News Association is a nonprofit organization. It has no parent, subsidiaries, or affiliates.

The Society of Environmental Journalists is a 501(c)(3) non-profit educational organization. It has no parent, subsidiaries, or affiliates.

Society of Professional Journalists is a non-stock corporation. It has no parent, subsidiaries, or affiliates.

Student Press Law Center is a 501(c)(3) not-for-profit corporation. It has no parent, subsidiaries, or affiliates.

The Tully Center for Free Speech is a subsidiary of Syracuse University. The Tully Center has no affiliates.

APL-2021-00131
Appellate Division—First Department Appellate Case Nos.: 2020-01908, 2020-01910
New York County Clerk’s Index No. 653118/14

Court of Appeals
of the
State of New York

LUKASZ GOTTWALD P/K/A Dr. Luke, KASZ MONEY, INC. and
PRESCRIPTION SONGS, LLC

Plaintiffs-Respondents,

– against –

KESHA ROSE SEBERT P/K/A Kesha,

Defendant-Appellant,

– and –

PEBE SEBERT, VECTOR MANAGEMENT, LLC and JACK ROVNER
Defendants.

KESHA ROSE SEBERT P/K/A Kesha,

Counterclaim-Plaintiff-Appellant,

– against –

LUKASZ GOTTWALD P/K/A Dr. Luke, KASZ MONEY, INC. and
PRESCRIPTION SONGS, LLC

Counterclaim-Defendant-Respondents,

**AFFIRMATION IN SUPPORT OF MOTION FOR LEAVE TO FILE BRIEF AS
*AMICI CURIAE***

EILEEN MONAGHAN DELUCIA
BRIAN T. GOLDMAN
PRISHIKA RAJ
HOLWELL SHUSTER & GOLDBERG LLP
425 Lexington Ave.
New York, NY 10017
(646) 837-5158
edelucia@hsgllp.com

EUGENE VOLOKH
FIRST AMENDMENT CLINIC
UCLA SCHOOL OF LAW
385 Charles E. Young Dr. E
Los Angeles, CA 90095
(310) 206-3926
volokh@law.ucla.edu

Attorneys for Proposed Amici Curiae

Eileen Monaghan DeLucia, duly admitted in the State of New York, hereby affirms under penalty of perjury that:

1. I am an attorney in good standing duly admitted to practice law before this Court and am Counsel at the law firm of Holwell Shuster & Goldberg LLP, the counsel for proposed *amici curiae* in this case.

2. I submit this affirmation in support of the motion for leave to file a brief *amici curiae* in support of Defendant-Appellant Kesha Rose Sebert.

3. The Reporters Committee for Freedom of the Press (the “Reporters Committee”) and 28 Media Organizations are in a position to offer the perspective of news organizations and organizations that advocate for the First Amendment rights of the press and the public. As set forth in their proposed *amici curiae* brief, the Reporters Committee is an unincorporated nonprofit association founded by leading journalists and media lawyers in 1970. Other *amici* are prominent news publishers and professional, trade, and academic groups, all of whom share an interest in preventing the misapplication of the public figure standard.

4. The Reporters Committee and *amici* are ideally situated to assist this

Court, and law and arguments that might otherwise not be brought to the Court's attention are set forth in the proposed *amici curiae* brief submitted herewith.

5. The accompanying brief has not been authored, in whole or in part, by counsel to any party in this appeal. No party or party's counsel contributed content to the brief or otherwise participated in its preparation (other than informing counsel for *amici* of deadlines).

6. No party or counsel to any party contributed any money intended to fund preparation or submission of this brief.

7. No person, other than *amici* or their counsel, contributed money that was intended to fund preparation or submission of this brief.

8. For the foregoing reasons, and for those stated in the proposed *amici curiae* brief, the Reporters Committee and 28 Media Organizations respectfully seek this Court's permission to serve and file the attached proposed *amici curiae* brief, and for such other and further relief as the Court may deem just and proper.

Dated: New York, New York
March 3, 2023

By: 
Eileen Monaghan DeLucia

Proposed Brief

Court of Appeals
of the
State of New York

LUKASZ GOTTWALD p/k/a Dr. Luke, KASZ MONEY, INC.
and PRESCRIPTION SONGS, LLC,

Plaintiffs-Respondents,

– against –

KESHA ROSE SEBERT p/k/a Kesha,

Defendant-Appellant,

– and –

PEBE SEBERT, VECTOR MANAGEMENT, LLC and JACK ROVNER,

Defendants.

(For Continuation of Caption See Inside Cover)

**BRIEF OF AMICI CURIAE THE REPORTERS COMMITTEE
FOR FREEDOM OF THE PRESS AND 28 MEDIA
ORGANIZATIONS IN SUPPORT OF DEFENDANT-
APPELLANT KESHA ROSE SEBERT**

EUGENE VOLOKH
FIRST AMENDMENT CLINIC
UCLA SCHOOL OF LAW
385 Charles E. Young Dr. E
Los Angeles, California 90095
Tel.: (310) 206-3926
volokh@law.ucla.edu

EILEEN MONAGHAN DELUCIA
BRIAN T. GOLDMAN
PRISHIKA RAJ
HOLWELL SHUSTER & GOLDBERG LLP
425 Lexington Avenue, 14th Floor
New York, New York 10017
Tel.: (646) 837-5151
Fax: (646) 837-5150
edelucia@hsgllp.com

Attorneys for Amici Curiae

March 3, 2023

KESHA ROSE SEBERT p/k/a Kesha,

Counterclaim-Plaintiff-Appellant,

– against –

LUKASZ GOTTWALD p/k/a Dr. Luke, KASZ MONEY, INC.
and PRESCRIPTION SONGS, LLC,

Counterclaim-Defendants-Respondents.

CORPORATE DISCLOSURE STATEMENT

Pursuant to 22 N.Y.C.R.R. § 500.1(f), the undersigned counsel for amici curiae certify as follows:

The Reporters Committee for Freedom of the Press is an unincorporated association of reporters and editors. It has no parent, subsidiaries, or affiliates.

Advance Publications, Inc. (“Advance”) has no parent corporation and no publicly held corporation owns any of its stock. Its operating companies are Condé Nast, Advance Local, ACBJ, Stage Entertainment, The IRONMAN Group, American City Business Journals, Leaders Group, Turnitin, 1010data, and POP. Advance is a shareholder in Charter Communications, Warner Bros. Discovery, and Reddit.

BuzzFeed Inc. is a privately owned company, and National Broadcasting Company (NBC) owns 10% or more of its stock. HuffPost is an indirectly held subsidiary of BuzzFeed, Inc., as is Complex Networks.

The Center for Investigative Reporting (d/b/a Reveal) is a California non-profit public benefit corporation that is tax-exempt under section 501(c)(3) of the Internal Revenue Code. It has no parent, subsidiaries, or affiliates.

The Daily Beast Company LLC is a wholly-owned indirect subsidiary of IAC/InterActiveCorp. It has no subsidiaries. Its parents and affiliates are:

- 24apps GmbH
- AB Licensing, LLC
- About Dotdash UK Limited
- About Insurance Solutions, LLC
- Accellab, LLC
- AHCW, Inc.
- Allrecipes.com, Inc.
- Angi Contracting LLC
- ANGI Group, LLC
- Angi Inc.
- Angi Roofing, LLC
- Angie's List, Inc.
- Apalon Apps LLC
- Apalon LT UAB
- Apalon, LLC
- APN, LLC
- Applications Partner, LLC

- Ask Applications, Inc.
- Ask Media Group, LLC
- Big Communications L.L.C.
- Bizrate Insights Inc.
- Book-Of-The-Month Club, LLC
- Breedlove & Associates, L.L.C.
- Business 2.0 Media, LLC
- Care Concierge, Inc.
- Care International Exchange, Inc.
- Care.com Australia Pty Limited
- Care.com Europe GmbH
- Care.com Europe Ltd.
- Care.com Securities Corporation
- Care.com Services, LLC
- Care.com Switzerland AG
- Care.com, Inc.
- CareZen Family Solutions, Inc.

- Clime Weather Service, LLC
- Comedy News Ventures, Inc.
- Conceptiv Apps LLC
- Confide, Inc.
- ConsumerSearch, Inc.
- CraftJack Inc.
- Customly LLC
- CV Acquisition Corp.
- Dotdash Media Inc.
- Dotdash Meredith, Inc.
- Eating Well, LLC
- Efundraising.com Corporation Incorporated
- Entertainment Weekly, LLC
- Epic Applications, LLC
- Falcon Holdings II, LLC
- Filios, Inc.
- Fixd Repair, LLC

- Fixd Services, LLC
- Four M Studios LLC
- Gift Services Company, LLC
- HAI Holding B.V.
- Handy Contracting, LLC
- Handy Platform Limited
- Handy Technologies, Inc.
- HandyBook Canada ULC
- Health Media Ventures Inc.
- Healthy Living, Inc.
- Hello Giggles, Inc.
- HL Productions, LLC
- HLVP Follow On Fund GP, LLC
- HLVP Follow On Fund, L.P.
- HLVP I GP, LLC
- HLVP I, L.P.
- HLVP II GP, LLC

- HLVP II Token, LLC
- HLVP II, L.P.
- HLVP III GP, LLC
- HLVP III, L.P.
- Home Advisor Limited
- HomeAdvisor GmbH
- HomeAdvisor International, LLC
- HomeAdvisor, Inc.
- HomeStars, Inc.
- HP Holdings, LLC
- HSN Capital LLC
- HSN, LLC
- HTRF Ventures, LLC
- Hyperfactory IT Services India Private Limited
- IAC 19th St. Holdings, LLC
- IAC Applications Holding Limited Partnership
- IAC Applications, LLC

- IAC Charitable Foundation, Inc.
- IAC Falcon Holdings III, LLC
- IAC Falcon Holdings, LLC
- IAC FinanceCo 4, Inc.
- IAC Group, LLC
- IAC NewCo LLC
- IAC Publishing Holding Limited Partnership
- IAC Search & Media Brands, Inc.
- IAC Search & Media Europe Limited
- IAC Search & Media Technologies FinanceCo II
- IAC Search & Media Technologies Limited
- IAC Search & Media UK Limited
- IAC Search & Media, Inc.
- IAC Search, LLC
- IAC Shopping International, Inc.
- IAC Work, LLC
- IAC/Expedia Global, LLC

- ImproveNet, Inc.
- InstantAction, LLC
- Instapro I AG
- Instapro II AG
- InterActiveCorp Films, Inc.
- InterActiveCorp Films, LLC
- InterCaptiveCorp, Ltd.
- International Publishing Corporation Limited
- Investopedia Canada, Inc.
- Investopedia LLC
- iTranslate GmbH
- Kit Reno Inc.
- League Sports Services LLC
- LeagueAthletics.com LLC
- Legacy AMS, LLC
- Liberty Street Studios LLC
- Life Inc.

- LifeCare Marketplace, Inc.
- LifeCare, Inc.
- LifeMart Insurance Services, Inc.
- Living the Country Life L.L.C.
- LMIS Captive Corporation
- Locust Street Insurance Company
- Locust Street Studios LLC
- Loyalty Extras, Inc.
- Maghound Enterprises Inc.
- Meredith Brasil Holdings, Ltda
- Meredith Funding Corporation
- Meredith Gift Cards, LLC
- Meredith Holding Company
- Meredith Holdings Corporation
- Meredith India Services Private Limited
- Meredith Lifestyle Marketing, LLC
- Meredith Operations Corporation

- Meredith Pension Trustee Ltd.
- Meredith Performance Marketing, LLC
- Meredith Shopper Marketing, LLC
- Meredith Video, L.L.C.
- Mexico Magazines Holdings LLC
- MH Handwerksleistungen Berlin UG
- Mhelpdesk, Inc.
- Mile High Insights, LLC
- MNI Targeted Media Inc.
- Mosaic Croatia d.o.o
- Mosaic Group Holdings, LLC
- MyBuilder Limited
- MyBuilder Plus Limited
- MyHammer GmbH
- MyLife, Inc.
- MyWedding LLC
- Newsub Magazine Services LLC

- NSSI Holdings Inc.
- Oar Health, LLC
- Ornica sp z.o.o.
- Oxmoor House, Inc.
- Publishing Partner, LLC
- QSP Distribution Services, LLC
- Quality Service Programs Inc.
- Real Simple Productions, Inc.
- Rural Life, L.L.C.
- Schlepp, Inc.
- Selectable Media Inc.
- Shanghai Apalon Software Dev Co
- Shanghai iTranslate Software Dev Co
- ShopNation, Inc.
- SirenServ, Inc.
- Slimware Utilities Holdings, Inc.
- Southern Progress Corporation

- Sports Digital Games, Inc.
- Sports Features Inc.
- Sports Play LLC
- Sports Signup Inc.
- Starnet Interactive, Inc.
- Styleclick, Inc.
- StyleFeeder Inc.
- Successful Aging, Inc.
- Synapse Group, Inc.
- Synapse Services, LLC
- TDB Holdings, Inc.
- TelTech Systems, Inc.
- The Daily Beast Company LLC
- The Picture Collection, LLC
- Thriveport, LLC
- TI Administrative Holdings LLC
- TI Asia (Hong Kong) Limited

- TI Asia Holdings, LLC
- TI Atlantic Europe Holdings Limited
- TI Books Holdings LLC
- TI Business Ventures Inc.
- TI Canada Ltd.
- TI Circulation Holdings LLC
- TI Consumer Marketing, Inc.
- TI Corporate Holdings LLC
- TI Customer Service, Inc.
- TI Direct Ventures LLC
- TI Distribution Holdings LLC
- TI Distribution Services, LLC
- TI European Holdings Limited
- TI Experiential, LLC
- TI Golf Holdings Inc.
- TI Gotham Inc.
- TI Inc. Affluent Media Group

- TI Inc. Books
- TI Inc. Domestic Licensing
- TI Inc. Food Studio Productions LLC
- TI Inc. Play
- TI Inc. Ventures
- TI Interactive, LLC
- TI International Fulfillment Services B.V.
- TI International Holdings Inc.
- TI Lifestyle Group, LLC
- TI Live Events Inc.
- TI Magazine Holdings Limited
- TI Magazine Holdings LLC
- TI Magazine Services LLC
- TI Magazine Services Sdn Bhd
- TI Magazines Europe Ltd.
- TI Mailing Services LLC
- TI Marketing Services Inc.

- TI Media Solutions Inc.
- TI Mexico Holdings Inc.
- TI Paperco Inc.
- TI Parsippany Inc.
- TI Publications Inc. De Mexico S.A. DE C.V.
- TI Publishing Ventures, Inc.
- TI Real Estate Services Inc.
- TI Retail Canada Inc.
- TI Retail Service Group, LLC
- TI Retail, LLC
- TI Sales Holdings LLC
- TI Shared Services Inc.
- TI Sports Productions, LLC
- TI Sports Ventures, LLC
- TI TV Corporation
- Total Home Roofing, LLC
- Town & Country Resources, Inc.

- Travaux.com S.à.r.l.
- Upside Enterprises, LLC
- Upside Manager, LLC
- Upside Marketplace Holdings, LLC
- Upside Marketplace, LLC
- Upside Series I, LLC
- USA Video Distribution LLC
- USANi LLC
- USANi Sub LLC
- Vertical Media Solutions Inc.
- Viant Technology Holding Inc.
- Vivian Health, Inc.
- Wanderspot LLC
- WD Productions LLC
- We are Mop! Limited
- Werkspot BV
- Xumo JV Holdings LLC

Daily News, L.P. is a limited partnership, the general partner of which is TRX Pubco LLC, a private entity. Daily News, L.P. has one subsidiary, Kearney Property Corp. There are no other affiliates.

The E.W. Scripps Company is a publicly traded company with no parent company. No individual stockholder owns more than 10% of its stock. Its subsidiaries are as follows:

- Media Convergence Group, Inc.
- Scripps National Spelling Bee, Inc.
- Scripps Licensing, Inc.
- Scripps Broadcasting Holdings LLC
- Journal Holdings, Inc.
- Scripps Media, Inc.
- ION Media Networks, Inc.
- Scripps Shared Services Company
- Scripps UK Holdings, LLC
- Scripps National Division Holding Company
- Scribion Broadcasting Holdings, LLC
- Scribion Broadcasting, LLC

- Scribion Rights Holdings, LLC
- Grit Media, LLC
- Laff Media, LLC
- Escape Media, LLC
- Bounce Media, LLC
- Trumpet Media, LLC
- Brown Sugar, LLC
- Court TV Media, LLC
- ION Media Stations, Inc.
- ION Station Properties, LLC
- ION Station Equipment, LLC
- ION Station Leases, LLC
- ION Television License, LLC
- ION Media Boston License, LLC
- ION Media Networks Real Property, LLC
- ION Media Networks Operations, LLC
- ION Media License Company, LLC

- Airbox Television, Inc.
- Nuvyyo USA, LLC
- Nuvyyo, Inc.

Freedom of the Press Foundation is a 501(c)(3) non-profit organization. It has no parent, subsidiaries, or affiliates.

Gannett Co., Inc. is a publicly traded company and has no affiliates or subsidiaries that are publicly owned. BlackRock, Inc. and the Vanguard Group, Inc. each own ten percent or more of the stock of Gannett Co., Inc. Gannett Co. Inc.'s subsidiaries are as follows:

- Action Advertising, Inc.
- AfterCollege, Inc.
- Albuquerque Publishing Company
- Alexandria Newspapers, Inc.
- American Influencer Awards, LLC
- Archant Community Media Limited
- Arizona News Service, LLC
- Baxter County Newspapers, Inc.
- Bizzy, Inc.

- Blue Dot Seats, LLC
- Boat Spinco, Inc.
- BridgeTower Media DLN, LLC
- BridgeTower Media Holding Company
- BridgeTower Media, LLC
- CA Alabama Holdings, Inc.
- CA Florida Holdings, LLC
- CA Louisiana Holdings, Inc.
- CA Massachusetts Holdings, Inc.
- CA North Carolina Holdings, Inc.
- CA South Carolina Holdings, Inc.
- Circle Centre Partners Limited Partnership
- Citizen Publishing Company
- CMGI (Moduslink)
- Copley Ohio Newspapers, Inc.
- Cummings Acquisition, LLC
- CyberInk, LLC

- Daily Journal of Commerce, Inc.
- Daily Reporter Publishing Company
- DB Acquisition, Inc.
- DB Arkansas Holdings, Inc.
- DB Iowa Holdings, Inc.
- DB North Carolina Holdings, Inc.
- DB Oklahoma Holdings, Inc.
- DB Tennessee Holdings, Inc.
- DB Texas Holdings, Inc.
- DB Washington Holdings, Inc.
- DealOn, LLC
- Des Moines Press Citizen LLC
- Des Moines Register and Tribune Company
- Desert Sun Publishing, LLC
- Desk Spinco, Inc.
- Detroit Free Press, Inc.
- Detroit Newspaper Partnership, L.P.

- DiGiCol, Inc.
- Dolco Acquisition, LLC
- DoorFront Direct, LLC
- ENHE Acquisition, LLC
- EnMotive Company LLC
- Enterprise NewsMedia Holding, LLC
- Enterprise NewsMedia, LLC
- Enterprise Publishing Company, LLC
- Evansville Courier Company, Inc.
- Federated Publications, Inc.
- Finance and Commerce, Inc.
- FoodBlogs, LLC
- Gannett GP Media, Inc.
- Gannett Holdings LLC
- Gannett International Communications, Inc.
- Gannett International Finance LLC
- Gannett International Finance LLP

- Gannett International Holdings LLP
- Gannett Media Corp.
- Gannett Media Services, LLC
- Gannett MHC Media, Inc.
- Gannett Missouri Publishing, Inc.
- Gannett Publishing Services, LLC
- Gannett Retail Advertising Group, Inc.
- Gannett River States Publishing Corporation
- Gannett Satellite Information Network, LLC
- Gannett SB, Inc.
- Gannett Supply Corporation
- Gannett U.K. Limited
- Gannett UK Media, LLC
- Gannett Ventures LLC
- Gannett Vermont Publishing, Inc.
- GateHouse Media Alaska Holdings, Inc.
- GateHouse Media Arkansas Holdings, Inc.

- GateHouse Media California Holdings, Inc.
- GateHouse Media Colorado Holdings, Inc.
- GateHouse Media Connecticut Holdings, Inc.
- GateHouse Media Corning Holdings, Inc.
- GateHouse Media Delaware Holdings, Inc.
- GateHouse Media Directories Holdings, Inc.
- GateHouse Media Freeport Holdings, Inc.
- GateHouse Media Georgia Holdings, Inc.
- GateHouse Media Holdco, LLC
- GateHouse Media Illinois Holdings II, Inc.
- GateHouse Media Illinois Holdings, Inc.
- GateHouse Media Indiana Holdings, Inc.
- GateHouse Media Intermediate Holdco, LLC
- GateHouse Media Iowa Holdings, Inc.
- GateHouse Media Kansas Holdings II, Inc.
- GateHouse Media Kansas Holdings, Inc.
- GateHouse Media Lansing Printing, Inc.

- GateHouse Media Louisiana Holdings, Inc.
- GateHouse Media Macomb Holdings, Inc.
- GateHouse Media Management Services, Inc.
- GateHouse Media Maryland Holdings, Inc.
- GateHouse Media Massachusetts I, Inc.
- GateHouse Media Massachusetts II, Inc.
- GateHouse Media Michigan Holdings II, Inc.
- GateHouse Media Michigan Holdings, Inc.
- GateHouse Media Minnesota Holdings, Inc.
- GateHouse Media Missouri Holdings II, Inc.
- GateHouse Media Missouri Holdings, Inc.
- GateHouse Media Nebraska Holdings, Inc.
- GateHouse Media New York Holdings, Inc.
- GateHouse Media North Dakota Holdings, Inc.
- GateHouse Media Ohio Holdings II, Inc.
- GateHouse Media Ohio Holdings, Inc.
- GateHouse Media Oklahoma Holdings, Inc.

- GateHouse Media Operating, LLC
- GateHouse Media Oregon Holdings, Inc.
- GateHouse Media Pennsylvania Holdings, Inc.
- GateHouse Media South Dakota Holdings, Inc.
- GateHouse Media Suburban Newspapers, Inc.
- GateHouse Media Tennessee Holdings, Inc.
- GateHouse Media Texas Holdings II, Inc.
- GateHouse Media Texas Holdings, Inc.
- GateHouse Media Virginia Holdings, Inc.
- GateHouse Media, LLC
- GCCC, LLC
- GCOE, LLC
- George W. Prescott Publishing Company, LLC
- GFHC, LLC
- GiddyUp Events LLC
- GNSS LLC
- Good Worldwide, Inc.

- Grateful Media, LLC
- Guam Publications, Incorporated
- Idaho Business Review, LLC
- Imagn Content Services, LLC
- Journal Community Publishing Group, Inc.
- Journal Media Group, Inc.
- Journal Sentinel Inc.
- Kickserv, LLC
- Lawyer's Weekly, LLC
- Liberty SMC, L.L.C.
- LMG Maine Holdings, Inc.
- LMG Massachusetts, Inc.
- LMG Nantucket, Inc.
- LMG National Publishing, Inc.
- LMG Rhode Island Holdings, Inc.
- LMG Stockton, Inc.
- Local Media Group Holdings LLC

- Local Media Group, Inc.
- LocaliQ Limited
- LOCALiQ LLC
- Loco Sports, LLC
- Long Island Business News, LLC
- Low Realty, LLC
- LRT Four Hundred, LLC
- Media Consortium, LLC
- Memphis Publishing Company
- Milwaukee Marathon LLC
- Mineral Daily News Tribune, Inc.
- Missouri Lawyers Media, LLC
- Moonlighting, Inc.
- Multimedia, Inc.
- New Media Holdings I LLC
- New Media Holdings II LLC
- New Media Ventures Group LLC

- New Orleans Publishing Group, L.L.C.
- News Leader, Inc.
- News.me Inc.
- Newsquest (Clyde & Forth Press) Limited
- Newsquest (Essex) Limited
- Newsquest (Herald & Times) Limited
- Newsquest (Herts and Bucks) Limited
- Newsquest (London & Essex) Limited
- Newsquest Capital Limited
- Newsquest Limited
- Newsquest Media (Southern) Limited
- Newsquest Media Group Limited
- Newsquest Pension Trustee Limited
- Newsquest Printing (Glasgow) Limited
- Newsquest Specialist Media Limited
- NOPG, L.L.C.
- PA Group Ltd.

- Pacific Media, Inc.
- Phoenix Newspapers, Inc.
- Placester, Inc.
- Press-Citizen Company, Inc.
- Reach plc
- ReachLocal Australia Pty Ltd
- ReachLocal Canada, Inc.
- ReachLocal DP, Inc.
- ReachLocal International GP LLC
- ReachLocal International, Inc.
- ReachLocal Mexico S. De R.L. de C.V.
- ReachLocal New Zealand Limited
- ReachLocal Services Private Limited
- ReachLocal, Inc.
- Reno Newspapers, Inc.
- Rugged Events Canada LTD
- Salinas Newspapers LLC

- Scripps NP Operating, LLC
- Scroll Labs Inc.
- Seacoast Newspapers, Inc.
- Sedona Publishing Company, Inc.
- Sopress Investments Limited
- Starline Printing Company, LLLP
- SureWest Directories
- Tap-on-it, LLC
- Terry Newspapers, Inc.
- Texas-New Mexico Newspapers, LLC
- Thanksgiving Ventures, LLC
- The Advertiser Company
- The Courier-Journal, Inc.
- The Daily Record Company, LLC
- The Desert Sun Publishing Co.
- The Journal Record Publishing Co., LLC
- The Mail Tribune, Inc.

- The Nickel of Medford, Inc.
- The NWS Company, LLC
- The Peoria Journal Star, Inc.
- The Sun Company of San Bernardino, California LLC
- The Times Herald Company
- ThriveHive, Inc.
- timeRAZOR, Inc. (d/b/a Gravy)
- TNI Partners
- TRL 2019 Limited
- UpCurve Cloud LLC
- UpCurve, Inc.
- USA Today Sports Media Group, LLC
- Ventures Endurance Events, LLC
- Ventures Endurance, LLC
- Visalia Newspapers LLC
- Weymouth Football Club
- William Trimble Limited

- Wordstream, Inc.
- WP Publishing
- W-Systems Corp.
- x.com, Inc.
- York Daily Record-York Sunday News LLC
- York Dispatch LLC
- York Newspaper Company
- York Newspapers Holdings, L.P.
- York Newspapers Holdings, LLC
- York Partnership Holdings, LLC

The International Documentary Association is a not-for-profit organization with no parent corporation and no stock. It has no parent, subsidiaries, or affiliates.

The Media Institute is a 501(c)(3) non-stock corporation with no parent corporation. It has no parent, subsidiaries, or affiliates.

MediaNews Group Inc. is a privately held company. No publicly-held company owns ten percent or more of its equity interest. Its subsidiaries are as follows:

- Long Beach Publishing Company
- Monterey Newspapers Partnership

- California Newspapers Partnership
- West Coast MediaNews LLC
- Torrance Holdings LLC
- Los Angeles Daily News Publishing Company
- Northwest Publications, LLC
- Eastern Colorado Publishing Company
- DP Media Network LLC
- San Jose Mercury-News, LLC
- Contra Costa Newspapers, LLC
- Bay Area News Group-East Bay LLC

National Newspaper Association is a non-stock nonprofit Florida corporation. It has no parent, subsidiaries, or affiliates.

National Press Photographers Association is a 501(c)(6) nonprofit organization with no parent company. It has no parent, subsidiaries, or affiliates.

The New York News Publishers Association has no parent, subsidiaries, or affiliates.

New York Public Radio is a privately supported, not-for-profit organization that has no parent company and issues no stock. It includes WNYC, WQXR, WNYC

Studios, Gothamist, The Jerome L. Greene Performance Space, and New Jersey Public Radio.

The New York Times Company's parents, subsidiaries, and affiliates are as follows:

- Parents: The New York Times Company is a public traded company with no parent corporation.
- Subsidiaries and Affiliates:
 - Fake Love LLC
 - Hello Society, LLC
 - Listen In Audio Inc.
 - Madison Paper Industries
 - New York Times Canada Ltd.
 - New York Times Digital LLC
 - Northern SC Paper Corporation
 - NYT Administradora de Bens e Servicos Ltda.
 - NYT Building Leasing Company LLC
 - NYT Capital, LLC
 - Midtown Insurance Company

- NYT Shared Service Center, Inc.
 - International Media Concepts, Inc.
- The New York Times Distribution Corporation
- The New York Times Sales Company
- The New York Times Syndication Sales Corporation
- NYT College Point LLC
- NYT Group Services, LLC
- NYT International LLC
 - New York Times Limited
 - New York Times (Zürich) GmbH
 - NYT B.V.
 - NYT France S.A.S.
 - International Herald Tribune U.S. Inc.
 - New York Times France-Kathimerini Commercial S.A.
 - The Herald Tribune - Ha'aretz Partnership
 - NYT Germany GmbH
 - NYT Hong Kong Limited

- Beijing Shixun Zhihua Consulting Co. LTD.
 - NYT International News LLC
 - NYT Japan GK
 - NYT Singapore PTE LTD
 - NYT Poland sp. z o.o.
- NYT News Bureau (India) Private Limited
- NYT Real Estate Company LLC
 - The New York Times Building LLC
- Rome Bureau S.r.l.
- Serial Productions LLC
- The Athletic Media Company
 - The Athletic Media Company Australia Pty Ltd.
 - The Athletic Media Company Canada Ltd
 - The Athletic Media Company UK Ltd.
 - The Athletic Media (Malaysia) SDN. BHD
- The New York Times Company Pty Limited
- Wirecutter, Inc.
- The New York Times Neediest Cases Fund

NewCoNews, Inc., publisher of The Intercept is a non-profit non-stock corporation. It has no parent, subsidiaries, or affiliates.

The News Leaders Association is a 501(c)(3) non-profit organization. It has no parent, subsidiaries, or affiliates.

News/Media Alliance is a nonprofit, non-stock corporation organized under the laws of the commonwealth of Virginia. It has no parent, subsidiaries, or affiliates.

The parent company of **Nexstar Media Inc.** is Nexstar Media Group, Inc. Its sole subsidiary is The CW Network, LLC.

Newsday LLC is a Delaware limited liability company whose members are Tillandsia Media Holdings LLC and The Charles F. Dolan 2014 Children Trust FBO Patrick F. Dolan. It has no subsidiaries or affiliates.

Online News Association is a not-for-profit organization. It has no parent, subsidiaries, or affiliates.

Penguin Random House LLC is a limited liability company whose ultimate parent corporation is Bertelsmann SE & Co. KGaA, a privately-held company. Its parents, affiliates, and subsidiaries are as follows:

- Bertelsmann, Inc.
 - Bertelsmann Publishing Group, Inc.

- PRH Publications LLC
- PRH Holdings LLC
 - Penguin Random House LLC
 - Random House Children’s Entertainment LLC
 - Golden Treasures LLC
 - Penguin Random House Grupo Editorial (USA) LLC
 - Sasquatch Books LLC
 - Frederick Warne & Co. LLC
 - Sourcebooks, LLC (52.99%)
 - DK Publishing LLC
 - RG Special Purpose LLC
 - Rebel Girls, Inc. (8.5%)
 - Playaway Products LLC
 - Offset Paperback MFRS., Inc.
 - Berryville Graphics, Inc.
 - Coral Graphics Services, Inc.
 - arvato systems North America, Inc

- arvato digital services llc
 - arvato entertainment llc
- Offset Paperback MFRS., Inc.
- BMG Rights Management (US) LLC
 - BMG Production Music, Inc.
 - R&B Music LLC (50%)
 - Rise Records, Inc.
 - BMG Audio Visual Productions LLC
 - This is Hit, Inc.
- Bertelsmann PRH Finance, Inc.
- Bertelsmann Digital Media Investments, Inc
- Bertelsmann Ventures, Inc.
 - BV Capital Fund II-A, L.P. (99%)
- Bertelsmann Digital Health, Inc.
- University Ventures Fund I, L.P. (47.27%)
- University Ventures Fund II, L.P. (55.1%)
- Stern Magazine Corp.
- Bertelsmann Accounting Services, Inc.

- RTL NY, Inc.
- Adjoe, Inc.
- Bertelsmann Health & Human Science Education LLC
 - Versidi, Inc.
 - Teach Us, Inc.
 - Arist Education System Fund LP (99.9997%)
 - Arist Education System LLC (85.0%)
 - Alliant International University, Inc.
 - SFLS, Inc.
- Bertelsmann Learning LLC
 - Relias LLC
- Bertelsmann Education Services LLC
 - Hotchalk LLC
- OCL Professional Education, Inc.
- Majorel USA Holding, Inc.
- Majorel USA, Inc.

Radio Television Digital News Association is a nonprofit organization. It has no parent, subsidiaries, or affiliates.

The Society of Environmental Journalists is a 501(c)(3) non-profit educational organization. It has no parent, subsidiaries, or affiliates.

Society of Professional Journalists is a non-stock corporation. It has no parent, subsidiaries, or affiliates.

Student Press Law Center is a 501(c)(3) not-for-profit corporation. It has no parent, subsidiaries, or affiliates.

The Tully Center for Free Speech is a subsidiary of Syracuse University. The Tully Center has no affiliates.

TABLE OF CONTENTS

Table of Authorities	xliv
Interest of the <i>Amici Curiae</i>	1
Summary of Argument.....	3
Argument	3
I. Dr. Luke is a General-Purpose Public Figure Under Precedents from this Court, the Second Circuit, and the Appellate Division.....	3
II. Dr. Luke is at Least a Limited-Purpose Public Figure.....	11
Conclusion.....	18

TABLE OF AUTHORITIES

Cases

<i>Alcor Life Extension Found. v. Johnson</i> , 136 A.D.3d 464 (1st Dep’t 2016), <i>aff’g</i> 43 Misc.3d 1225(A) (Sup. Ct. 2014).....	11
<i>Alcor Life Extension Found. v. Johnson</i> , 43 Misc.3d 1225(A) (Sup. Ct. 2014).....	11
<i>Bell v. Associated Press</i> , 584 F. Supp. 128 (D.D.C. 1984)	17
<i>Celle v. Filipino Reporter Enterprises Inc.</i> , 209 F.3d 163 (2d Cir. 2000)	4, 5, 11
<i>Daniel Goldreyer, Ltd. v. Dow Jones & Co., Inc.</i> , 259 A.D.2d 353 (1999).....	12
<i>Fine v. ESPN, Inc.</i> , 2016 WL 6605107 (N.D.N.Y. Mar. 25, 2016)	12, 13
<i>Foretich v. Advance Magazine Publishers, Inc.</i> , 765 F. Supp. 1099 (D.D.C. 1991)	13
<i>Jankovic v. Int’l Crisis Grp.</i> , 822 F.3d 576 (D.C. Cir. 2016).....	12
<i>Lerman v. Flynt Distrib. Co., Inc.</i> , 745 F.2d 123 (2d Cir. 1984)	13
<i>Maule v. NYM Corp.</i> , 54 N.Y.2d 880 (1981).....	4, 5, 11
<i>Rosanova v. Playboy Enterprises, Inc.</i> , 580 F.2d 859 (5th Cir. 1978).....	18
<i>Tavoulareas v. Piro</i> , 817 F.2d 762 (D.C. Cir. 1987).....	12, 13
<i>Waldbaum v. Fairchild Publ’ns, Inc.</i> , 627 F.2d 1287 (D.C. Cir. 1980).....	12, 15
<i>Wells v. Liddy</i> , 186 F.3d 505 (4th Cir. 1999).....	17
<i>Wilsey v. Saratoga Harness Racing, Inc.</i> , 140 A.D.2d 857 (3d Dep’t 1988).....	4, 5, 6, 11
<i>Winklevoss v. Steinberg</i> , 170 A.D.3d 618 (1st Dep’t 2019).....	4, 5, 10, 11, 12, 13

<i>Winklevoss v. Steinberg</i> , No. 159079/2017, 2018 WL 4491202 (N.Y. Sup. Sept. 19, 2018).....	13
---	----

Other Authorities

<i>2008 Summer Olympics Results—Rowing</i> , ESPN BEIJING 2008	10
Adam Sternbergh, <i>The Hit Whisperer</i> , N.Y. MAG. (Jun. 16, 2010)	9, 16
AvrilLavigneIsMyDrug, <i>Making of The Best Damn Thing</i> , YOUTUBE (Jun. 19, 2012), https://youtu.be/KY2Rh-sxs5c?t=864	16
Chiderah Monde, <i>Dr. Luke Pulls Out of ‘American Idol’ Gig Due to Record Label Conflict of Interest: Report</i> , N.Y. DAILY NEWS (Aug. 27, 2013).....	8
Chris Willman, <i>Dr. Luke: The Billboard Cover Story</i> , BILLBOARD (Sept. 3, 2010).....	8
Christine Kearney, <i>Rihanna Sues Ex-Accountants, Says She Lost Millions</i> , REUTERS (July 5, 2012)	14
<i>Dr. Luke: The Hitmaker</i> , ABC WORLD NEWS (Feb. 19, 2011)	9
<i>Dr. Luke: The Man Behind Pop’s Biggest Hits</i> , NPR: MORNING EDITION (Sept. 20, 2010)	10, 15, 16
Ed Christman, <i>Dr. Luke, Max Martin Win Songwriters of the Year at ASCAP Pop Music Awards</i> , BILLBOARD (Apr. 28, 2011).....	8
Gavin Edwards, <i>Dr. Luke’s Awesomely Trashy Pop Sound Is Ruling the Airwaves</i> , ROLLING STONE (Apr. 29, 2010)	9
HOLLYWOOD WALK OF FAME, <i>Browse Stars</i> , https://www.walkoffame.com/browse-stars/ (last visited May 23, 2021)	8
Jennifer Vineyard, <i>Britney Spears was Drugged, Controlled by Sam Lutfi, Parents Allege</i> , MTV (Feb. 5, 2008).....	14

John Seabrook, <i>The Doctor Is In</i> , NEW YORKER (Oct. 7, 2013)	9, 15, 16
Julia March, <i>Winklevoss Twins Sue Marijuana Startup Investor for Defamation</i> , N.Y. POST (Oct. 12, 2017, 5:43 PM).....	10
Keith Caulfield, <i>Max Martin Scores 20th No. 1 on Hot 100 With Taylor Swift’s ‘Bad Blood’</i> , BILLBOARD (Mar. 27, 2015)	7
Kelsea Stahler, <i>The Problem with ‘Free Ke\$ha’</i> , BUSTLE (Oct. 13, 2013).....	14
Luke Lewis, <i>Meet Dr Luke, The Producer Behind Smash Hits for Katy Perry and Kesha</i> , GUARDIAN (Aug. 13, 2010).....	9, 16
Recording Academy Grammy Awards, <i>Artist / Dr. Luke</i>	8
Roy Trakin, <i>Dr. Luke, Pitbull, Pharrell, Ken Ehrlich Top Music Picks for 2015 Hollywood Walk of Fame</i> , HOLLYWOOD REPORTER (Jun. 19, 2014).....	8
Sean Fennessy, <i>Surveying the Dr. Luke Moment: A Critical Look at Lazars, Glitter, and the Un-Sexing of America’s Pop Stars</i> , VILLAGE VOICE (May 18, 2010).....	15, 16
Shirley Halperin, <i>Dr. Luke: ‘I’m Always Petrified That This Is My Last Good Song’ (Q&A)</i> , HOLLYWOOD REPORTER (FEB. 6, 2013).....	7, 9

INTEREST OF THE *AMICI CURIAE*¹

Lead *amicus curiae* is the Reporters Committee for Freedom of the Press, an unincorporated nonprofit association founded by leading journalists and media lawyers in 1970. Reporters Committee attorneys provide pro bono legal representation, *amicus curiae* support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists. Other *amici* are prominent news publishers,

- Advance Publications, Inc.,
- BuzzFeed, Inc.,
- The Center for Investigative Reporting (d/b/a Reveal),
- The Daily Beast Company LLC,
- Daily News, LP,
- The E.W. Scripps Company,
- Gannett Co., Inc.
- MediaNews Group Inc.
- NewCoNews, Inc., publisher of The Intercept
- New York Public Radio,
- The New York Times Company
- Newsday LLC,
- Nexstar Media Inc., and
- Penguin Random House LLC

and professional, trade, and academic groups,

¹ No counsel for a party authored this brief in whole or part, nor did any person or entity, other than *amici* or their counsel, contribute money towards preparing or submitting this brief.

- Freedom of the Press Foundation,
- The International Documentary Association,
- The Media Institute,
- National Newspaper Association,
- National Press Photographers Association,
- New York News Publishers Association
- The News Leaders Association,
- News/Media Alliance,
- Online News Association,
- Radio Television Digital News Association,
- Society of Environmental Journalists
- Society of Professional Journalists,
- Student Press Law Center, and
- Tully Center for Free Speech

Misapplication of the public figure standard can help powerful figures silence free speech using libel suits, and thus undermine the public's ability to discuss and be informed of allegations of professional misconduct. As news organizations and organizations that advocate for the First Amendment rights of the press and public, *amici* seek to prevent such an outcome. In recent years, the #MeToo movement has brought to light sexual assault and harassment in Hollywood, the music industry, business, and beyond. Journalists have played an important part in uncovering wrongdoing, highlighted by award-winning investigative reporting from outlets including *The New York Times* and *The New Yorker*. To affirm the conclusion reached by the Appellate Division, First Department, majority below—that even powerful

and famous alleged abusers are private figures in the eyes of the law so long as they have not inserted themselves into the public debate about sexual assault—would threaten such essential reporting.

SUMMARY OF ARGUMENT

This Court, the Second Circuit, and the Appellate Division have all recognized that a professional who is prominent in a particular industry and who successfully seeks publicity for his professional achievements is a general-purpose public figure. Other New York cases have also recognized that, even when professionals who have achieved some prominence are not general-purpose public figures, they are limited-purpose public figures as to commentary related to their professions. Defendant-Appellant’s speech about Dr. Luke’s alleged mistreatment of his professional colleagues should be, at a minimum, treated as speech about a public figure under that test.

ARGUMENT

I. Dr. Luke is a General-Purpose Public Figure Under Precedents from this Court, the Second Circuit, and the Appellate Division.

New York courts have treated professionals who are famous in their field, and who successfully seek out publicity, as general-purpose public figures. Instructive decisions include:

1. *Maule v. NYM Corp.*, 54 N.Y.2d 880 (1981), where this Court held that a sportswriter was a “public personality” and thus a “public figure” because “his books, articles and personal appearances . . . were obviously designed to project his name and personality before millions,” and he “actively sought publicity for his views and professional writing and by his own purposeful activities thrust himself into the public eye.” *Id.* at 882-83.
2. *Celle v. Filipino Reporter Enterprises Inc.*, 209 F.3d 163 (2d Cir. 2000), which held that a plaintiff’s self-characterization “as a ‘well known radio commentator’ within the Metropolitan Filipino-American community” made him a public figure within that community. *Id.* at 177.
3. *Winklevoss v. Steinberg*, 170 A.D.3d 618 (1st Dep’t 2019), which held that the investor plaintiffs were “general purpose public figures, famous by virtue of their participation in the Olympics, their portrayal in the film ‘The Social Network,’ and routine coverage in popular media, coverage in which they willingly participate.” *Id.* at 619.
4. *Wilsey v. Saratoga Harness Racing, Inc.*, 140 A.D.2d 857 (3d Dep’t 1988), which held that plaintiff “harness [horse racing] track driver” was a public figure, since he was someone in whom the “public has a continuing interest,”

“who [had] taken steps to attract such interest,” and who had “comment[ed] for newspaper articles and on television.” *Id.* at 858.

The majority opinion below sought to distinguish *Maule*, but only while discussing “limited purpose public figure[s],” and only as an example of a case “where the plaintiffs sought publicity regarding the public controversies which were the subject of their litigation.” A-13. Yet *Maule* does not speak about limited-purpose public figures; it said that “plaintiff was a public figure,” 54 N.Y.2d at 881, and “had become a public personality,” *id.* at 883, with no “limited-purpose” qualifier.

Likewise, nothing in *Maule* suggests that Maule’s public figure status was limited to allegations about the subjects on which he had sought publicity. Indeed, the *Maule* opinion saw no need to even discuss the subject of the allegedly libelous publication, presumably because it had found Maule to be a general-purpose public figure.

The majority opinion below likewise sought to distinguish *Winklevoss* as involving “plaintiffs [who] sought publicity regarding the public controversies which were the subject of their litigation.” A-13. But *Winklevoss* expressly held that the individual plaintiffs were general-purpose public figures, not only limited-purpose public figures. 170 A.D.3d at 619. The majority opinion below did not discuss *Celle* or *Wilsey*.

According to the majority opinion below:

Gottwald’s success in the music business is not enough to bring him into the realm of a general-purpose public figure, even if the music he produces is known to the general public or he is associated with famous or household word musicians, especially where he has used his efforts as a producer to obtain publicity not for himself, but for the artists that he represents. Although he is an acclaimed music producer and well known in the entertainment industry, he is not a household name. His success in a high-profile career, without more, does not warrant a finding that he is a general-purpose public figure.

A-10. Yet the same could have been said of sportswriter Maule, journalist Celle, the investors Winklevoss, and horse driver Wilsey. None of them appeared likely to be a “household name,” except in households that were particularly interested in their fields of endeavor. Yet none was treated as a limited-purpose public figure, and the opinions did not limit their public figure status to statements related to any particular class of controversies into which they had injected themselves. (The *Wilsey* court did mention that Wilsey had “generated some of the controversy and public attention surrounding his termination,” which was the topic of the story about him, but only after noting his broader professional achievements, and saying he was “akin to a professional athlete or entertainer.” 140 A.D.2d at 858.)

Likewise, Gottwald—Dr. Luke—even if not known to every American, is at the apex of his profession. He has himself stated that he has received “international acclaim and respect from his peers both in the music and entertainment industries and

from the public at large,” Appellant’s Brief 48 (citing sources), and has sought public attention, including by promoting himself on social media and hiring a deep bench of public relations specialists, *id.* at 47 (citing sources).

By his own description, Dr. Luke is “one of the most successful songwriters and sought-out producers in the entertainment industry today, having written or cowritten more number one hits than any other songwriter,” working in the “highest echelons of the music industry” with such superstars as “Britney Spears, Katy Perry, and Pink.” Defendant Lukasz Gottwald’s Memorandum of Law in Opposition to Plaintiff’s Motion to Dismiss His Counterclaims at 1, *DAS Commc’ns v. Sebert*, No. 650457/2010 (N.Y. Sup. Ct. N.Y. Cnty. April 11, 2011). By 2013, he had more than 40 hit songs,² sixteen of which reached #1 on the Billboard Hot 100 chart—tied for the third most among all producers and fifth among all songwriters behind Paul McCartney and John Lennon.³ By 2014, he had been nominated for a Grammy four

² See Shirley Halperin, *Dr. Luke: ‘I’m Always Petrified That This Is My Last Good Song’ (Q&A)*, HOLLYWOOD REPORTER (Feb. 6, 2013, 8:00 AM), <https://www.hollywoodreporter.com/earshot/dr-luke-im-petrified-is-418709>.

³ See Keith Caulfield, *Max Martin Scores 20th No. 1 on Hot 100 With Taylor Swift’s ‘Bad Blood’*, BILLBOARD (Mar. 27, 2015), <https://www.billboard.com/articles/columns/chart-beat/6576210/taylor-swift-bad-blood-max-martin-20th-number-1-hot-100> [<https://web.archive.org/web/20150702150309/http://www.billboard.com/articles/columns/chart-beat/6576210/taylor-swift-bad-blood-max-martin-20th-number-1-hot-100>].

times,⁴ had received seventeen ASCAP awards, and had been named the “ASCAP Songwriter of the Year” twice.⁵ He was selected to be a judge on *American Idol* in 2013, but declined the position.⁶ He was also chosen to be honored with a star on the Hollywood Walk of Fame in 2014, though the star has never actually been installed, for reasons that have not been made clear.⁷

He was the subject of a 2010 *Billboard* cover story,⁸ and the subject of a 2010 *Rolling Stone* profile titled “Dr. Luke’s Awesomely Trashy Pop Sound Is Ruling the Airwaves,” which deemed him “the most reliable hitmaker in the music business

⁴ Recording Academy Grammy Awards, *Artist / Dr. Luke*, <https://www.grammy.com/grammys/artists/dr-luke/3000> (data for 2010 and 2013).

⁵ See Ed Christman, *Dr. Luke, Max Martin Win Songwriters of the Year at ASCAP Pop Music Awards*, BILLBOARD (Apr. 28, 2011), <https://www.billboard.com/articles/news/471839/dr-luke-max-martin-win-songwriters-of-the-year-at-ascap-pop-music-awards>.

⁶ See Chiderah Monde, *Dr. Luke Pulls Out of ‘American Idol’ Gig Due to Record Label Conflict of Interest: Report*, N.Y. DAILY NEWS (Aug. 27, 2013, 8:21 AM), <https://www.nydailynews.com/entertainment/tv-movies/dr-luke-not-joining-idol-due-conflict-interest-article-1.1437992>.

⁷ Roy Trakin, *Dr. Luke, Pitbull, Pharrell, Ken Ehrlich Top Music Picks for 2015 Hollywood Walk of Fame*, HOLLYWOOD REPORTER (Jun. 19, 2014, 1:04 PM), <https://www.hollywoodreporter.com/news/dr-luke-pitbull-pharrell-ken-713228>; *Browse Stars*, HOLLYWOOD WALK OF FAME, <https://walkoffame.com/browse-stars/> (last visited May 23, 2021) (searches for “Dr.,” “Luke,” “Gottwald,” “Lukasz,” and “Lukas” indicate that there is no star for Dr. Luke).

⁸ Chris Willman, *Dr. Luke: The Billboard Cover Story*, BILLBOARD (Sept. 3, 2010), <https://www.billboard.com/articles/news/956518/dr-luke-the-billboard-cover-story>.

today.”⁹ He also was the subject of a 2013 *Hollywood Reporter* story that called him the “new King of Pop.”¹⁰ Beyond the music and entertainment-related press, Dr. Luke has appeared

- on ABC World News Tonight in a featured segment titled, “Dr. Luke: The Hitmaker”;¹¹
- in a *New York Magazine* profile labeling him “The Hit Whisperer”;¹²
- in a *Guardian* article characterizing him as “the architect of pop’s biggest . . . chart smashes”;¹³
- in an over-7,000-word *New Yorker* profile saying he “rank[s] with the greatest hitmakers in pop-music history”;¹⁴

⁹ Gavin Edwards, *Dr. Luke’s Awesomely Trashy Pop Sound Is Ruling the Airwaves*, ROLLING STONE (Apr. 29, 2010), at 88-89 (republished online at <https://rulefortytwo.com/articles-essays/music/dr-luke/>).

¹⁰ Halperin, *supra* note 2.

¹¹ See *Dr. Luke: The Hitmaker*, ABC WORLD NEWS (Feb. 18, 2011), <https://abcnews.go.com/Nightline/video/dr-luke-hitmaker-beat-master-music-producer-katy-kesha-britney-spears-12953677> (video now available at <https://www.youtube.com/watch?v=uWWKavfQKAM>).

¹² Adam Sternbergh, *The Hit Whisperer*, N.Y. MAG. (Jun. 16, 2010), <https://nymag.com/guides/summer/2010/66784/>.

¹³ Luke Lewis, *Meet Dr Luke, The Producer Behind Smash Hits for Katy Perry and Kesha*, GUARDIAN (Aug. 13, 2010, 7:06 PM), <https://www.theguardian.com/music/2010/aug/14/dr-luke-katy-perry-gottwald>.

¹⁴ John Seabrook, *The Doctor Is In*, NEW YORKER (Oct. 7, 2013), <https://www.newyorker.com/magazine/2013/10/14/the-doctor-is-in>.

- on NPR's *Morning Edition* in a segment about him as "one of pop's most bankable producers."¹⁵

These examples make up just a small portion of the massive amount of publicity that Dr. Luke had received prior to the filing of this lawsuit. And while he argues in this case that he "is not a performer; he is a music producer working behind the scenes, in the studio, to create music," Respondents' Brief at 52, the relevant question is not whether his day-to-day work is "behind the scenes." (After all, the work of the investors in *Winklevoss* also largely took place behind closed doors.¹⁶) Rather, the question is whether Dr. Luke has sought and received sufficient fame and access to the media as a result of his professional accomplishments. And in this respect, Dr.

¹⁵ *Dr. Luke: The Man Behind Pop's Biggest Hits*, NPR: MORNING EDITION (Sept. 20, 2010, 12:00 AM), <https://www.npr.org/templates/story/story.php?storyId=129956645>.

¹⁶ The *Winklevoss* plaintiffs' Olympic performance in the relatively low-profile sport of pair rowing had been in 2008, nine years in the past by the time of the allegedly libelous statements in *Winklevoss*, and their appearance in the film *The Social Network* was comparable to Gottwald's appearance on ABC World News Tonight. See *2008 Summer Olympics Results—Rowing*, ESPN BEIJING 2008, <https://web.archive.org/web/20201203042935/https://www.espn.com/olympics/summer08/results?eventId=360> (noting that the Winklevoss twins finished 6th in pairs rowing); Julia March, *Winklevoss Twins Sue Marijuana Startup Investor for Defamation*, N.Y. POST (Oct. 12, 2017, 5:43 PM), <https://nypost.com/2017/10/12/winklevoss-twins-sue-marijuana-startup-for-defamation/> (noting that the alleged libelous statement was made in June 2017).

Luke is at least in the same league as the plaintiffs in *Maule*, *Celle*, *Winklevoss*, and *Wilsey*—plaintiffs who were all correctly found to be general-purpose public figures.

II. Dr. Luke is at Least a Limited-Purpose Public Figure.

Even if Dr. Luke should be treated only as a limited-purpose public figure, this status extends—as several New York appellate courts have recognized—to all controversies related to his professional role, which would include controversies about his alleged sexual misconduct towards his close professional associates:

1. *Alcor Life Extension Found. v. Johnson*, 136 A.D.3d 464 (1st Dep’t 2016), *aff’g* 43 Misc.3d 1225(A) (Sup. Ct. 2014), held that “the actual malice standard of proof” extends to all statements about limited-purpose public figures that are “related to plaintiff’s cryogenic business, which plaintiff publicized.” *Id.* at 464. (Alcor had “concede[d] that it [was] a limited purpose public figure,” 43 Misc.3d 1225(A), *4, but the Supreme Court went beyond accepting that concession, stating that “[t]here can be no disputing that Alcor has been at least a limited public figure for many years,” *id.* at *9. More importantly, the court concluded that “the actual malice standard of proof” used for limited purpose public figures applies to all statements “related to plaintiff’s . . . business.” 136 A.D.3d at 464.)

2. *Winklevoss* concluded that all the plaintiffs were “limited purpose public figures” (only the individual plaintiffs were general-purpose public figures) with regard to comments about their interactions with a prospective business partner, because of “their voluntary participation in numerous interviews, in widely-covered conferences and meetings with entrepreneurs, and in their own radio broadcasts.” 170 A.D.3d at 619.
3. *Daniel Goldreyer, Ltd. v. Dow Jones & Co., Inc.*, 259 A.D.2d 353 (1st Dep’t 1999), concluded that plaintiff was a limited-purpose public figure as to an incident involving his allegedly “questionable techniques” as a professional art restorer, even though he had never sought publicity as to that incident and was indeed “an involuntary limited purpose public figure.” *Id.* at 353-54.

Courts have generally defined a public controversy “as being broader than the narrower discussion contained in the defamatory document.” *Jankovic v. Int’l Crisis Grp.*, 822 F.3d 576, 586 (D.C. Cir. 2016) (citing *Tavoulaareas v. Piro*, 817 F.2d 762, 778-79 (D.C. Cir. 1987), and *Waldbaum v. Fairchild Publ’ns, Inc.*, 627 F.2d 1287, 1290 & n.5, 1299 (D.C. Cir. 1980)). Thus, for instance, in *Fine v. ESPN, Inc.*, statements about sexual molestation of members of a men’s basketball team were found to relate to the public controversy about the “integrity of the Syracuse University

men’s basketball team and efforts to address at-risk youths,” and not just to the molestation itself. 2016 WL 6605107 at *9 (N.D.N.Y. Mar. 25, 2016); *see also Tavou-lareas*, 817 F.2d at 773 (topic of public controversy was “state of the oil industry”); *Foretich v. Advance Magazine Publishers, Inc.*, 765 F. Supp. 1099, 1102 (D.D.C. 1991) (topics of public controversy were “child abuse, women’s rights, [and] the intrusion of the state into private affairs”).

Here, the majority opinion below stated:

To determine whether a plaintiff is a limited purpose public figure the “defendant must show the plaintiff has: (1) successfully invited public attention to his views in an effort to influence others prior to the incident that is the subject of litigation; (2) voluntarily injected himself into a public controversy related to the subject of the litigation; (3) assumed a position of prominence in the public controversy; and (4) maintained regular and continuing access to the media.”

A-11 (quoting *Lerman v. Flynt Distrib. Co., Inc.*, 745 F.2d 123, 136-37 (2d Cir. 1984)). But the “subject of the litigation” must be understood broadly, as New York appellate courts have previously recognized. Nothing in *Winklevoss*, for instance, suggests that the plaintiffs had sought publicity as to the particular deal about which the defendant had been commenting—only that they had sought publicity for their investment business generally. 170 A.D.3d at 619; *Winklevoss v. Steinberg*, No. 159079/2017, 2018 WL 4491202, at *1-2 (N.Y. Sup. Sept. 19, 2018).

The treatment of artists by businesspeople and executives is a topic of public controversy, whether as to artists allegedly being abused by their management team financially like Rihanna,¹⁷ or physically like Britney Spears.¹⁸ In fact, Dr. Luke’s professional relationship with Defendant-Appellant Kesha was already a public controversy by late 2013, when the “Free Ke\$ha” movement—a movement that gained both public support and criticism—began publicly advocating for the release of Kesha from her contract with Dr. Luke.¹⁹

Kesha’s allegations regarding Dr. Luke’s conduct, as a music producer and songwriter, towards artists with whom he worked fit squarely within the public controversy about artist-business relations, given that these allegations bear on Dr. Luke’s trustworthiness in his dealings with young female artists. As the dissenting opinion below correctly noted, “[t]he definition of limited purpose public figure is not so cramped as to only include individuals and entities that purposefully speak about the

¹⁷ See Christine Kearney, *Rihanna Sues Ex-Accountants, Says She Lost Millions*, REUTERS (July 5, 2012, 11:46 AM), <https://www.reuters.com/article/entertainment-us-rihanna-lawsuit/rihanna-sues-ex-accountants-says-she-lost-millions-idUSBRE86410L20120705>.

¹⁸ See Jennifer Vineyard, *Britney Spears was Drugged, Controlled by Sam Lutfi, Parents Allege*, MTV NEWS (Feb. 5, 2008), <http://www.mtv.com/news/1580991/britney-spears-was-drugged-controlled-by-sam-lutfi-parents-allege/>.

¹⁹ See Kelsea Stahler, *The Problem with ‘Free Ke\$ha’*, BUSTLE (Oct. 16, 2013), <https://www.bustle.com/articles/7048-free-keha-is-a-very-problematic-movement>.

specific, narrow topic (in this case a protégé’s sexual assault) upon which the defamation claim is based.” A-18; *see also, e.g., Waldbaum*, 627 F.2d at 1298 (explaining that “[m]isstatements *wholly unrelated* to the controversy” are not protected, but statements about a plaintiff’s “talents, education, experience, and motives” can be “germane” to the controversy) (emphasis added).

Dr. Luke promoted himself as a producer who has strong, symbiotic relationships with his artists. He stressed that it is his job “to find great songs with the artists, for the artists, and have them shine.”²⁰ His fame derives from developing female pop stars like Kesha, Katy Perry, Bonnie McKee, and Becky G by “participat[ing] in every aspect of their career.”²¹ He is known for having done “quite a bit to alter the course of gender identity in pop music,” specifically for female singers.²² Modern pop music—“female-fronted, sexually frank, dalek-voiced, fizzing with 80s

²⁰ NPR: MORNING EDITION, *supra* note 15.

²¹ Seabrook, *supra* note 14.

²² Sean Fennessy, *Surveying the Dr. Luke Moment: A Critical Look at Lazars, Glitter, and the Un-Sexing of America’s Pop Stars*, VILLAGE VOICE (May 18, 2010), <https://www.villagevoice.com/2010/05/18/surveying-the-dr-luke-moment-a-critical-look-at-lazars-glitter-and-the-un-sexing-of-americas-pop-stars/>.

synths—is broadly Gottwald’s creation.”²³ The fact that his work is “primarily with spunky female solo artists”²⁴ is not an insignificant part of his prestige—to the contrary, it is what made “the Dr. Luke Moment.”²⁵

He has also promoted himself to the public as someone trustworthy, who has close relationships with his artists. For example, in a behind-the-scenes video of Avril Lavigne’s “The Best Damn Thing” album, Dr. Luke took his shirt off and asked Lavigne to pepper spray him, which she did. He commented in the video, “I’m so abused. You know. And I kinda like it, . . . I am Avril’s bitch, basically.”²⁶ He also publicized his bet with Miley Cyrus that her song “Wrecking Ball” would not top the Billboard Hot 100, a bet he lost.²⁷

Given Dr. Luke’s efforts to promote himself in the press and on social media as a powerful advocate for his artists—and as their intimate, personal friend—he has

²³ Lewis, *supra* note 13. See also NPR: MORNING EDITION, *supra* n.15 (“[Katy] Perry is one among a large group of young, female pop artists whom Dr. Luke has worked with.”).

²⁴ Sternbergh, *supra* note 12.

²⁵ Fennessy, *supra* note 22.

²⁶ AvrilLavigneIsMyDrug, *Making of The Best Damn Thing*, YOUTUBE (Jun. 19, 2012), <https://youtu.be/KY2Rh-sxs5c?t=830> (at 13:50).

²⁷ Seabrook, *supra* note 14.

injected himself into the controversy of treatment of artists by businesspeople and executives.

Professional athletes can hardly be permitted to hold themselves out as public figures, seeking a maximum amount of publicity for themselves and their teams with respect to their athletic achievements, while successfully claiming strictly private status when misconduct is charged or proved. Their professional careers and those of other entertainers who seek the public spotlight are so intimately tied to their personal conduct that such a distinction would be entirely unrealistic.

Bell v. Associated Press, 584 F. Supp. 128, 131-32 (D.D.C. 1984). The same reasoning applies to immensely successful professional producers who seek publicity, like Dr. Luke. Kesha's allegations of misconduct relate to the professional career that Dr. Luke has built for himself, and to the public controversy about producers' treatment of artists they work with.

The tide of sexual misconduct allegations in the entertainment industry has shown the importance of "prevent[ing] a chilling effect upon the media's investigation of public events" in this field. *Wells v. Liddy*, 186 F.3d 505, 541 (4th Cir. 1999). Both the press and alleged victims must be able to freely discuss alleged professional misconduct, armed with the full protections that the First Amendment provides in libel cases. If courts apply public figure status too narrowly in libel suits related to sexual misconduct claims, as the majority did below, the plaintiff's lower standard

of proof “would unconstitutionally inhibit debate and comment concerning” this important public controversy. *Rosanova v. Playboy Enterprises, Inc.*, 580 F.2d 859, 862 (5th Cir. 1978).

CONCLUSION

Dr. Luke is a public figure, as case law from this Court, the Second Circuit, and the Appellate Division, all make clear. *Amici* urge this Court to reverse the decision below.

Dated: March 3, 2023
NEW YORK, NEW YORK

Respectfully submitted,

EILEEN MONAGHAN DELUCIA
HOLWELL SHUSTER &
GOLDBERG LLP
425 Lexington Ave.
New York, NY 10017
(646) 837-5158
edelucia@hsgllp.com

EUGENE VOLOKH*
FIRST AMENDMENT CLINIC
UCLA SCHOOL OF LAW
405 Hilgard Ave.
Los Angeles, CA 90095
(310) 206-3926
volokh@law.ucla.edu

*Application for admission *pro hac vice*
pending

Counsel for Proposed Amici Curiae

Printing Specifications Statement

Pursuant to 22 N.Y.C.R.R. § 500.1(j)(1) and § 500.13(c)(1) and (3)

The foregoing brief was prepared on a computer. A proportionally spaced typeface was used, as follows:

Name of typeface: Times New Roman

Point size: 14 (footnotes 12)

Line spacing: Double

The total number of words in the brief, inclusive of point headings and footnotes and exclusive of pages containing the table of contents, table of citations, proof of service, printing specifications statement, or any authorized addendum containing statutes, rules and regulations, etc. is 3,666 words.