

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT

UKRAINE RELIEF, ET AL.,

Plaintiffs-Respondents,

v.

RUSLAN GURZHIY,

Defendant-Appellant.

3rd Civ. No. C088778

Sacramento County

Superior Court

Case No. 34-2018-00234969

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**APPLICATION FOR LEAVE TO FILE AMICI CURIAE BRIEF AND  
PROPOSED AMICI BRIEF OF THE REPORTERS COMMITTEE  
FOR FREEDOM OF THE PRESS AND 13 MEDIA ORGANIZATIONS  
IN SUPPORT OF DEFENDANT-APPELLANT**

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**APPLICATION FOR LEAVE TO FILE**  
**AMICI CURIAE BRIEF**

**TO THE HONORABLE PRESIDING JUSTICE AND ASSOCIATE  
JUSTICES OF THE COURT OF APPEAL FOR THE STATE OF  
CALIFORNIA, THIRD APPELLATE DISTRICT:**

Pursuant to California Rule of Court 8.200(c), the Reporters Committee for Freedom of the Press, California News Publishers Association, CalMatters, The Center for Investigative Reporting (d/b/a Reveal), Embarcadero Media, Investigative Reporting Workshop at American University, The Media Institute, MPA - The Association of Magazine Media, The News Leaders Association, Northern California Chapter of the Society of Professional Journalists, The Sacramento Bee, Society of Environmental Journalists, Society of Professional Journalists, and Tully Center for Free Speech (collectively, “amici”) respectfully request leave to file the attached amici curiae brief in support of Defendant-Appellant Ruslan Gurzhiy (“Gurzhiy”). Gurzhiy consents to the filing of the attached amici brief. Plaintiffs-Respondents (“Plaintiffs”) did not provide their position on the filing of the attached amici brief in response to a request from counsel for amici.

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## I. INTEREST OF AMICI CURIAE

News organizations play an essential role by informing public discussion about matters of public concern. Because defamation actions can chill news reporting and commentary about such issues, rigorous application of statutory and constitutional limitations on defamation actions are necessary to ensure that they do not undermine our “profound national commitment” to the principle that public discourse “should be uninhibited, robust, and wide-open.” (*N.Y. Times Co. v. Sullivan* (1964) 376 U.S. 254, 270.) This defamation case presents an issue of significant concern to amici, who are news organizations and organizations that advocate on behalf of journalists and the press.

The California Retraction Statute, California Civil Code § 48a, protects daily and weekly news publications by limiting the damages available to defamation plaintiffs in the absence of a prior request for a retraction or correction. The trial court’s ruling below incorrectly held that the California Retraction Statute does not apply to *The Slavic Sacramento* because Gurzhiy had not proven that it was a “publication, either in print or electronic form, that contains news on matters of public concern and that publishes at least once a week.” (See Min. Order at 7, *Ukraine Relief v. Gurzhiy* (C088778, app. pending).) The trial court reached this holding despite Gurzhiy’s sworn

declaration, which Plaintiffs did not challenge, explaining that *The Slavic Sacramento* publishes two to five articles a week. (*See ibid.*)

Amici write to explain the purpose of the California Retraction Statute and the import of the Legislature’s decision to amend it in 2015 to make clear that it applies to “daily and weekly news publications.” (*See* Cal. Civ. Code § 48a, subd. (d)(5).) Amici also write to emphasize the negative impact that would result from affirmance of the trial court’s order, especially on smaller, local, community news publications and foreign language news outlets. As described in the attached amici brief, the trial court’s ruling below, if affirmed, could deny smaller news organizations the protection the Legislature intends to extend to them under the California Retraction Statute.

Amici respectfully request that the Court accept and file the attached amici brief. No party or counsel for any party in the pending appeal, other than counsel for amici, authored the proposed amici brief in whole or in part, or made a monetary contribution intended to fund the preparation or submission of the brief. No person other than amici, their members, or their counsel made a monetary contribution intended to fund the preparation or submission of the proposed amici brief.

Dated: September 28, 2020

/s/ Katie Townsend

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**CERTIFICATE OF INTERESTED ENTITIES OR PERSONS**

Pursuant to California Rule of Court 8.208(e)(1) and (2), amicus curiae by and through their undersigned counsel, certify that the Reporters Committee for Freedom of the Press is an unincorporated association of reporters and editors with no parent corporation and no stock.

California News Publishers Association ("CNPA") is a mutual benefit corporation organized under state law for the purpose of promoting and preserving the newspaper industry in California. No entity or person has an ownership interest of 10 percent or more in CNPA.

CalMatters is a nonprofit California public benefit corporation recognized under Section 501(c)(3) of the Internal Revenue Code. No entity or person has an ownership interest of 10 percent or more of CalMatters.

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 statutory members and no stock.

Embarcadero Media is an independent and locally-owned media company. No entity or person has an ownership interest of

10 percent or more of Embarcadero Media other than founder William Johnson.

The Investigative Reporting Workshop is a privately funded, nonprofit news organization based at the American University School of Communication in Washington. It issues no stock.

The Media Institute is a 501(c)(3) non-stock corporation with no parent corporation.

MPA - The Association of Magazine Media has no parent companies, and no publicly held company owns more than 10% of its stock.

The News Leaders Association has no parent corporation and does not issue any stock.

Northern California Society of Professional Journalists has no parent corporation and issues no stock.

The Sacramento Bee is owned by The McClatchy Company, LLC. McClatchy is privately owned by certain funds affiliated with Chatham Asset Management, LLC and does not have publicly traded stocks.

The Society of Environmental Journalists is a 501(c)(3) non-profit educational organization. It has no parent corporation and issues no stock.

Society of Professional Journalists is a non-stock corporation with no parent company.

The Tully Center for Free Speech is a subsidiary of Syracuse University.

Dated: September 28, 2020

*/s/ Katie Townsend*

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## INTRODUCTION

Plaintiffs-Respondents Ukraine Relief, Great Commission Ministry International, USKO Shipping, Inc., USKO Express, Inc., Stephan Skots, Roman Skots, Anna Skots, Vitaliy Skots, and Vladimir Skots (collectively, “Plaintiffs”) allege that Defendant-Appellant Ruslan Gurzhiy (“Gurzhiy”) defamed them in three articles (the “Articles”) he wrote and published in his online news outlet, *The Slavic Sacramento*. Plaintiffs brought suit against Gurzhiy for libel and other claims based on 112 different statements in the Articles. (*See* Appellant’s Opening Br. 18.)

Gurzhiy filed a special motion to strike pursuant to California’s anti-SLAPP statute, Code Civ. Proc. § 425.16. The trial court granted the motion in part and denied the motion in part. (Appellant’s Br. 19.) In denying Gurzhiy’s anti-SLAPP motion in part, the trial court misinterpreted, and thus failed to apply, a statutory bar to Plaintiffs’ claims: Civ. Code § 48a (the “California Retraction Statute” or the “Statute”). The Statute provides that “[i]n any action for damages for the publication of a libel in a daily or weekly news publication”—defined as “a publication, either in print or electronic form, that contains news

on matters of public concern and that publishes at least once a week”—“plaintiff shall only recover special damages unless a correction is demanded and is not published.” (Civ. Code § 48a, subd. (a), (d)(5).)

Gurzhiy argued below that the California Retraction Statute bars all of Plaintiffs’ claims because they did not request a correction and did not plead special damages. (See Appellant’s Br. 19.) The trial court held, however, that the Statute does not apply in this case because Gurzhiy failed to prove that *The Slavic Sacramento* publishes news “at least once a week.” (See Min. Order at 7, *Ukraine Relief v. Gurzhiy* (C088778, app. pending).)

This holding is contrary to the text of the Statute and the intent of the California Legislature (“Legislature”) that the Statute be broadly construed to include weekly online publications such as *The Slavic Sacramento*. In 2015, the Legislature amended the Statute with the express intent that it apply to a broader group of news publications, including smaller, online publications like *The Slavic Sacramento*.

In addition, the trial court erred by finding that Gurzhiy’s declaration was insufficient evidence that *The Slavic Sacramento* publishes on a weekly basis. An uncontroverted sworn

declaration stating that a news outlet publishes on an at least weekly basis is sufficient proof of the applicability of the California Retraction Statute. To hold otherwise could strip the protection of the Statute from news publications entitled to it, especially smaller or independent news organizations.

For these reasons, amici urge the Court to reverse the trial court's denial in part of Gurzhiy's motion to strike.<sup>1</sup>

### ARGUMENT

**I. The California Legislature amended the Statute to ensure its application to weekly online publications such as *The Slavic Sacramento*.**

The purpose of the California Retraction Statute, which was enacted in 1931, *Kalpoe v. Superior Court* (2013) 222 Cal.App.4th 206, 210 (hereafter *Kalpoe*), is “to encourage the dissemination of news.” (*Werner v. S. Cal. Associated Newspapers* (1950) 35 Cal.2d 121, 134 (hereafter *Werner*)). The Legislature recognized that, in light of the “complex and far-flung activities” of news organizations and “the necessity of publishing

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<sup>1</sup> Amici write to address only the trial court's holding that the California Retraction Statute does not apply to *The Slavic Sacramento*. Amici do not address whether Plaintiffs pleaded special damages or whether the trial court's denial in part of Gurzhiy's motion to strike should be reversed for other reasons—issues that are aptly addressed in Gurzhiy's briefs to the Court.

news while it is new, newspapers and radio stations may in good faith publicize items that are untrue but whose falsity they have neither the time nor the opportunity to ascertain.” *Kalpoie, supra* 222 Cal.App.4th at p. 212 [quoting *Werner, supra*, 35 Cal.2d at p. 128].) The Statute reflects the Legislature’s view that “the public interest in the dissemination of news outweighs the possible injury to a plaintiff from the publication of a libel,” and the Statute thus “properly encourage[s] and protect[s] news dissemination by relieving newspapers and radio stations from all but special damages resulting from defamation, upon the publication of a retraction.” (*Id.* [quoting *Werner, supra*, 35 Cal.2d at p. 128].)

In 2015, the Legislature amended the Statute to make clear that it applies to “a daily or weekly news publication.” (Assem. Bill No. 998 (2015-2016 Reg. Sess.)) As amended, the Statute defines a “daily or weekly news publication” as “a publication, either in print or electronic form, that contains news on matters of public concern and that publishes at least once a week.” (Civ. Code § 48a, subd. (d)(5).)

The bill amending the Statute, Assembly Bill Number 998 (“AB 998”) was introduced in 2014, following the decision of the

Court of Appeal, Second Appellate District, Division Four in *Thieriot v. The Wrapnews Inc.*, No. B245022, 2014 WL 1491494 (Cal. Ct. App. Apr. 15, 2014) (hereafter “*Thieriot*”). (Eugene Volokh, *California libel retraction statute extended to cover online publications*, Wash. Post (Sept. 30, 2015) <<https://perma.cc/XU4E-HMD3>> [as of Sept. 21, 2020] (hereafter “Volokh”).) *Thieriot* held that the Statute applied only to newspapers and radio broadcasts and therefore did not apply to the daily online entertainment newspaper *The Wrap*. (See *Thieriot, supra*, 2014 WL 1491494, at \*11.) The Legislature intended AB 998 to extend the protection of the California Retraction Statute to online publications “to the extent that the weekly and online publications perform the same news-disseminating function as a daily newspaper.” (Assem. Bill No. 998 (2015-2016 Reg. Sess.); see also Volokh, *supra*.)

The Legislature purposefully amended the Statute to include “daily or weekly” online news publications because it recognized that the purpose of the Statute is “to protect enterprises engaged ‘in the immediate dissemination of news [because such enterprises] cannot always check their sources for accuracy and their stories for inadvertent publication errors.’”

(Assem. Floor Analysis of Assem. Bill No. 998 (2015-2016 Reg. Sess.) Aug. 31, 2015, p. 2 [quoting *Condit v. National Enquirer* (2002) 248 F. Supp. 2d 945, 955].) Because daily and weekly online news publications, like print publications, also may be engaged in the immediate dissemination of news, the Legislature amended the Statute specifically to extend its protection to them. (*Ibid.*)

The Legislature’s decision to apply the California Retraction Statute to daily or weekly news publications, including online news outlets, is consistent with the purposes of the First Amendment and the California Constitution. (U.S. Const., 1<sup>st</sup> Amend.; Cal. Const., art. I, § 2.) The First Amendment secures our “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open. . . .” (*N.Y. Times Co. v. Sullivan* (1964) 376 U.S. 254, 270.) The press enables this open debate by informing citizens about matters of public concern. As the Supreme Court has observed, “[A]n untrammelled press [is] a vital source of public information,’ . . . and an informed public is the essence of working democracy.” (*Minn. Star & Trib. Co. v. Minn. Comm’r of Revenue*

(1983) 460 U.S. 575, 585 [quoting *Grosjean v. Am. Press Co.* (1936) 297 U.S. 233, 250].)

The California Constitution also recognizes the importance of a free press. (See Cal. Const. art. I, § 2 [stating that “[a] law may not restrain or abridge liberty of speech or press.”].) California courts recognize that “[o]ur form of democratic government is dependent upon the unfettered exchange of information. (*Beilenson v. Superior Court* (1996) 44 Cal.App.4th 944, 956.)

The Legislature’s extension of the protections of the Statute to daily and weekly news publications ensured that the exchange of information remains unfettered. (See Erik Uglund, *Demarcating the Right to Gather News: A Sequential Interpretation of the First Amendment*, 3 Duke J. Const. L. & Pub. Pol’y 113, 170 (2008) [noting that the modern day practices of “bloggers and others . . . parallel those of the printers and pamphleteers of the Revolutionary era.”].)

**II. The trial court erred in holding that *The Slavic Sacramento* did not show it is a “daily or weekly news publication” within the meaning of the Statute.**

Gurzhiy submitted a declaration to the trial court in which he stated that *The Slavic Sacramento* is “an online news

publication that publishes matters of public concern to the Slavic community. *The Slavic Sacramento* has been publishing news on a weekly basis (between two and five articles each week) since 2014.” (Gurzhiy Decl. ¶2.) Plaintiffs did not dispute Gurzhiy’s declaration before the trial court. (See Appellant’s Reply Br. 29). Nevertheless, the trial court held that the declaration was insufficient to show that *The Slavic Sacramento* is a “daily or weekly news publication” within the meaning of the Statute.<sup>2</sup> (Min. Order at 7, *Ukraine Relief v. Gurzhiy* (C088778, app. pending).) Amici agree with Gurzhiy that “[b]ecause Gurzhiy’s testimony was uncontradicted, the trial court should have accepted Gurzhiy’s evidence as establishing the facts asserted” and that the trial court therefore erred in holding that the Statute does not apply to *The Slavic Sacramento*. (Appellant’s Reply Br. 29.)

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<sup>2</sup> The trial court correctly found that the “primary subject matter of” the Articles “constituted issues of public interest,” (Min. Order at 4, *Ukraine Relief v. Gurzhiy* (C088778, app. pending)), and Plaintiffs make no argument on appeal that *The Slavic Sacramento* does not contain “news on matters of public concern.” (See Civ. Code § 48a, subd. (d)(5).) Accordingly, this argument is waived, and amici do not address it. (*Mansell v. Bd. of Admin.* (1994) 30 Cal.App.4th 539, 545.)

In addition, the trial court’s conclusion that Gurzhiy’s declaration was insufficient, if upheld, could significantly burden news publications seeking to invoke the California Retraction Statute, especially smaller, independent, and foreign language news outlets. In light of the legislative decision to extend the protection of the Statute to a broader category of news organizations, *see supra* Section I, the Court should make clear that the proof Gurzhiy offered was sufficient.

Local news organizations play an essential role in informing the American public. (See Josh Stearns, *How We Know Journalism is Good for Democracy*, Medium (June 26, 2018) <<https://perma.cc/U9BG-8862>> [as of Sept. 21, 2020] [compiling studies examining the importance of local news].) Similarly, foreign language news organizations are a critical source of information for Americans whose native language is not English.<sup>3</sup> As of 2013, 28 percent of New York City residents subscribed to one of the city’s 95 foreign language papers, for a total circulation

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<sup>3</sup> As of 2016, more than 15 percent of the adult U.S. population spoke a language other than English at home. (Christopher Ingraham, *Millions of U.S. citizens don’t speak English to one another – that’s not a problem*, Wash. Post (May 21, 2018) <<https://perma.cc/Z6NV-AAAL>> [as of Sept. 21, 2020].

of about 2.94 million. (See Center for Community and Ethnic Media, *Getting the Word Out (or Not): How and Where New York City Advertises* (Mar. 2013) <<https://perma.cc/DRM9-MJPP>> [as of Sept. 21, 2020].)

Since the early 2000s, the U.S. news industry has experienced financial strain as advertising revenue has declined.<sup>4</sup> News organizations of all sizes have suffered, but nondailies have fared the worst. Of the 2,100 newspapers that shuttered between 2004 and 2019, weeklies and nondailies comprised more than 2,000. (Penelope Muse Abernathy, *News Deserts and Ghost*

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<sup>4</sup> This decline in advertising revenue largely has been attributed to competition from social media platforms and other technology companies. In 2018, technology companies earned 58 percent of all online advertising revenue in national markets and 77 percent of revenue in local markets. (Keach Hagey, Lukas I. Alpert, and Yaryna Serkez, *In News Industry, a Stark Divide Between Haves and Have-Nots*, Wall Street J. (May 4, 2019) <<https://www.wsj.com/graphics/local-newspapers-stark-divide/>> [as of September 21, 2020].) In 2020, Facebook and Google are expected to earn 61 percent of all digital advertising revenue in the United States. (Benjamin Mullin, *Google in Talks to Pay Publishers for News*, Wall Street J. (Feb. 14, 2020) <<https://www.wsj.com/articles/google-in-talks-to-pay-publishers-for-content-in-premium-news-product-11581689169>> [as of Sept. 21, 2020].)

*Newspapers: Will Local News Survive?* (2020)

<<https://perma.cc/B8DA-GFEN>> [as of Sept. 21, 2020], p. 11.)<sup>5</sup>

Foreign language news organizations have struggled along with their English counterparts. For example, New York’s oldest Spanish language newspaper *El Diario La Prensa* lost approximately \$2 million in 2015. (Jas Chana, *Smaller, Ethnic Publications Get a Much-Needed Boost*, *Observer* (Jan. 29, 2016) <<https://perma.cc/KKE5-W2YP>> [as of Sept. 21, 2020].)

In order to survive, nondailies and foreign language news organizations must limit their costs. Indeed, some smaller news organizations who are sued may well be forced to defend themselves without the benefit of legal counsel.<sup>6</sup> The trial court’s

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<sup>5</sup> The demise of these news outlets has contributed to the existence of 1,800 “news deserts” across the country. (*Ibid.*) “News deserts” are 1) communities that have no local newspaper, or 2) communities that have a local newspaper but whose “residents are facing significantly diminished access to the sort of important local news and information that feeds grassroots democracy.” (*Id.* at p. 115.)

<sup>6</sup> According to a study conducted in 2015, “65% of the editors who responded reported that the news industry is weaker in its ability to pursue legal activity around First Amendment-related issues than it was 10 years ago.” (Knight Foundation, *In Defense of the First Amendment* (2016) <<https://perma.cc/W2ZS-8D5Y>> [as of Sept. 21, 2020].) 89 percent of this group said that a lack of financial resources was to blame. (*Ibid.*)

holding that an uncontroverted declaration stating that a news organization publishes “between two and five articles a week” is insufficient to show that the news outlet is a “daily or weekly news publication” may mean that smaller, less wealthy news organizations, like *The Slavic Sacramento*, will be unable to avail themselves of the protections of the California Retraction Statute—protections that the Legislature intended to extend to them.

### CONCLUSION

For the foregoing reasons, and for the reasons stated by Gurzhiy, amici urge this Court to reverse the denial in part of Gurzhiy’s motion to strike.

Dated: September 28, 2020

Respectfully submitted,

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**CERTIFICATE OF WORD COUNT**

Pursuant to Rule 8.204 of the California Rules of Court, I hereby certify that the foregoing amicus curiae brief was produced using 13-point Roman type including footnotes and contains 2,294 words. In making this certification, I have relied on the word-count function of the Microsoft Word computer program used to prepare this brief.

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## APPENDIX A

**The Reporters Committee for Freedom of the Press** is an unincorporated nonprofit association. The Reporters Committee was founded by leading journalists and media lawyers in 1970 when the nations news media faced an unprecedented wave of government subpoenas forcing reporters to name confidential sources. Today, its attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists.

**The California News Publishers Association** ("CNPA") is a nonprofit trade association representing the interests of over 400 daily, weekly and student newspapers and news websites throughout California.

**CalMatters** is a nonpartisan, nonprofit journalism organization based in Sacramento, California. It covers state policy and politics, helping Californians to better understand how their government works while serving the traditional journalistic mission of bringing accountability and transparency to the state's Capitol. The work of its veteran journalists is shared, at no cost, with more than 180 media partners throughout the state.

**The Center for Investigative Reporting** (d/b/a Reveal), founded in 1977, is the nation's oldest nonprofit investigative newsroom. Reveal produces investigative journalism for its website <https://www.revealnews.org/>, the Reveal national public radio show and podcast, and various documentary projects. Reveal often works in collaboration with other newsrooms across the country.

**Embarcadero Media** is a Palo Alto-based 40-year-old independent and locally-owned media company that publishes the Palo Alto Weekly, Pleasanton Weekly, Mountain View Voice and Menlo Park Almanac, as well as associated websites. Its reporters regularly rely on the California Public Records Act to obtain documents from local agencies.

**The Investigative Reporting Workshop**, based at the School of Communication (SOC) at American University, is a nonprofit, professional newsroom. The Workshop publishes in-depth stories at [investigativereportingworkshop.org](http://investigativereportingworkshop.org) about government and corporate accountability, ranging widely from the environment and health to national security and the economy.

**The Media Institute** is a nonprofit foundation specializing in communications policy issues founded in 1979. The Media Institute exists to foster three goals: freedom of speech, a competitive media and communications industry, and excellence in journalism. Its program agenda encompasses all sectors of the media, from print and broadcast outlets to cable, satellite, and online services.

**MPA – The Association of Magazine Media**, (“MPA”) is the industry association for magazine media publishers. The MPA, established in 1919, represents the interests of close to 100 magazine media companies with more than 500 individual magazine brands. MPA’s membership creates professionally researched and edited content across all print and digital media on topics that include news, culture, sports, lifestyle and virtually every other interest, avocation or pastime enjoyed by Americans. The MPA has a long history of advocating on First Amendment issues.

**The News Leaders Association** was formed via the merger of the American Society of News Editors and the Associated Press Media Editors in September 2019. It aims to foster and develop the highest standards of trustworthy, truth-

seeking journalism; to advocate for open, honest and transparent government; to fight for free speech and an independent press; and to nurture the next generation of news leaders committed to spreading knowledge that informs democracy.

**The Northern California Chapter of the Society of Professional Journalists** (“SPJ NorCal”) is dedicated to improving and protecting journalism. It is a Chapter of the national Society of Professional Journalists, the nation’s most broad-based journalism organization. Founded in 1909 as Sigma Delta Chi, the Society of Professional Journalists promotes the free flow of information vital to a well-informed citizenry, works to inspire and educate the next generation of journalists, and protects the First Amendment guarantees of freedom of speech and press. SPJ NorCal has a Freedom of Information Committee of journalists and First Amendment lawyers, which assists in its free speech and government transparency advocacy. Also, in collaboration with its Freedom of Information Committee, it hosts the annual James Madison Freedom of Information Awards and offers training to journalists on free press and access issues.

**The Sacramento Bee** is a division of The McClatchy Company, LLC. The flagship newspaper of McClatchy and the

largest paper in the region, The Sacramento Bee was awarded its first Pulitzer Prize in 1935 for Public Service. Since that time, The Bee has won numerous awards, including five more Pulitzer Prizes, the most recent for editorial cartooning in 2016.

**The Society of Environmental Journalists** is the only North-American membership association of professional journalists dedicated to more and better coverage of environment-related issues.

**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.

## PROOF OF SERVICE

I, Samantha Espinosa, do hereby affirm that I am, and was at the time of service mentioned hereafter, at least 18 years of age and not a party to the above-captioned action. My business address is 1156 15th Street NW, Suite 1020, Washington, DC 20005. I am a citizen of the United States and am employed in Washington, District of Columbia.

On September 28, 2020, I served the foregoing documents: **Application for Leave to File *Amici Curiae* Brief of the Reporters Committee for Freedom of the Press and 13 Media Organizations in Support of Defendant-Appellant** as follows:

[X] VIA TRUEFILING E-SERVICE: Pursuant to California Court Rule 8.71 and Local Rule 5, the below were served electronically by the Court's ESF:

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[X] By United States mail: I served the attached documents by enclosing true copies of the documents in a sealed envelope with postage fully prepaid thereon. I then placed the envelope in a U.S. Postal Service mailbox in Washington, D.C., addressed as follows:

Hon. David Brown, Judge  
Sacramento County Superior Court  
720 9th Street, Dept. 53  
Sacramento, CA 95814

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I declare under penalty of perjury under the laws of the State of California and the United States that the above is true and corrected.

Executed on September 28, 2020, at Washington, DC.

/s/ Samantha Espinosa

Samantha Espinosa

Document received by the CA 3rd District Court of Appeal.